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Business Client UPDATE

## Till turning 60 do us part – divorce in later life

Divorce among the over-60s is at records levels. The latest figures show that the overall divorce rate across all age groups fell by 11% between 2007 and 2009.

However, the figure for the over-60s rose by 4.2% to 11,507 over the same period. It's always sad to see a marriage come to an end but it seems particularly so when a couple have been together for 30 or 40 years.

Older people face the same general issues that confront all couples involved in a divorce.

It's likely that before the divorce, the couple's wealth, including the house, was owned jointly by both partners. When one died, the estate would pass to the other without inheritance tax issues.

Once they divorce, however, that automatic exemption no longer applies and so they may have to look closely at arrangements to protect their estate as much as possible.

Wills are an important issue for all divorcing couples but especially so for the elderly. If they already have a will in place, it's likely that they will have left all or most of their estate to their partner. Do they still want that to happen once they divorce? Who do they want to benefit if not their former spouse?



They will need to draw up a new will to reflect their changing circumstances. The couple will also have to reach a financial settlement.



Generally speaking, assets will have to be divided equally. All the couple's assets, including pensions, are taken into account when assessing the matrimonial pot.

Looking to the future, many couples may intend to marry again. If so, they are increasingly likely to consider drawing up pre-nuptial agreements with their new spouse.

Pre-nups used to be considered unreliable but they have gained in popularity following recent high profile cases in which the courts ruled that they are to be a factor taken into account.

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## Protect your future with Lasting Powers of Attorney

Better health care means that people are now living longer lives.

However, increased life expectancy has brought with it an increase in the number of dementia cases. The Alzheimer's Society says that one million people in the UK could be affected by dementia by 2021.

It is impossible to predict our health but we can take steps to protect our interests if we lose our mental capacity. Lasting Powers of Attorney (LPAs) enable you to nominate someone such as a

family member or trusted associate to make decisions on your behalf if you ever lose the ability to do so yourself.

The property and finance LPA allows you to appoint someone to look after your financial affairs, and the personal welfare LPA lets you grant an attorney authority over such matters as health care and the kind of medical treatment you receive.

Although many people see LPAs as a good way of guarding against future incapacity, they are often used

in other circumstances when there is no illness involved.

For example, you may wish to grant someone you trust the authority to handle some of your affairs because you may be busy with other commitments. LPAs can be very useful in these situations.

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# Could friends provide the key to buying a new home?

With mortgages still hard to come by, many people are getting together with friends as a way of buying a home.

It can be a good way of taking the first step on the property ladder as long as everyone understands what is involved and there is a legally binding agreement that is fair to everyone.

It's quite usual for friends to be informal about their relationship, but circumstances change and so it is wise to decide in advance what should happen if someone wants to move or sell their share of the house.

One approach is to draw up a co-ownership contract which sets out the nature of the agreement and how things should be handled if circumstances change. For example, joint buyers may want to consider



what happens if one of them loses their job and can no longer pay their share of the mortgage. There are other points to consider such as what happens if one person needs to sell their share? How should that share be valued?

There are also questions as to how mortgage payments should be paid. Does each part-owner pay individually or should there be a joint bank account?

Most of these points are straightforward but it is better to deal with them at the outset rather than wait until issues arise a few years down the line.

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## Woman successfully challenges her father's will

A woman has successfully challenged the will of her Sikh father after he left nearly all of his estate to his sons.

The father had amassed an estate valued at £870,000. According to his will, the bulk of the estate was to be shared between his three sons.

Two of his daughters were to receive £20,000 each and his third daughter was to receive nothing. One of the daughters challenged the will on the basis that it was invalid because the

two witnesses were not both present when it had been signed by her father.

During the High Court hearing, one of the witnesses gave evidence supporting the daughter's claim.

The brothers submitted that their father had wanted to comply with Sikh tradition, which meant the sons should inherit most of the estate while the daughters were given wedding dowries. The judge held that there was "the strongest evidence" that the

legal requirements had not been met. He therefore declared the will invalid.

This means the estate has to be divided equally between all six children in accordance with the laws of intestacy that apply when a person dies without making a will.

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