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Welcome

Welcome to the Personal and Family Focus.

This time we look at the issues raised by BBC's Panorama highlighting the dangers of using Will writers, Caroline Pinney outlines the increase in dementia sufferers and sets out ways that people can ensure they protect themselves should they fall victim to this illness and Kim Aucott takes a look at what the over 50s can do to protect their assets if they are planning a second marriage.

I would also like to take this opportunity to welcome our new partner Robin Charrot to our ever expanding family law team.

Robin, who qualified as a solicitor in 1997, previously worked at Manchester firm Pannone, Jersey law firm Carey Olsen, and was managing partner of the Stowe Family Law office in Altrincham before joining us over the summer. He has a wealth of experience advising high net worth individuals on complex divorce matters and pre-marriage contracts, often involving company assets, trusts and offshore / international elements. He joins Michael Chapman and Kim Aucott in the family law team.

As usual if you would like to contact us to discuss any of the matters raised in this newsletter please feel free.

If you would like to unsubscribe to this newsletter please telephone 0161 236 8992 or email marketing@georgedavies.co.uk with "unsubscribe to personal and family focus" in the subject box.

Kind regards

Tony Hall

Partner



Dangers of Using Will Writers

A recent episode of Panorama highlighted the risks in using a Will writing service. Many people are under the false impression that a 'Will writer' is a solicitor, but unlike a solicitor they do not have to undergo any training, do not have to carry any insurance and are not overseen by any organisation regulating their conduct and providing a form of redress if things go wrong.

A case study

Panorama reported on the case of Andrew Poole's wife, Suzanne, who used a Will writer, but the Will they produced failed to include any provision for him, leaving the entire estate in trust for his stepdaughters. Caroline Bielanska, Chief Executive of Solicitors for the Elderly, appeared on the Panorama programme, and expressed concern that the Will writers appeared to have failed to advise on his right to bring a claim against the estate for adequate provision. She said, 'A specialist solicitor would have asked why a spouse was left out, kept a detailed record of those reasons

and advised of the tax implications and the high risk that the Will would be challenged. Solicitors are in the business of giving legal advice, taking into account the client's domestic and financial circumstances- it does not appear that Suzanne Poole received any such advice'.

High pressure sales

The lack of regulation has enabled many Will writers to adopt high pressure selling techniques which were also illustrated by Panorama, often providing Wills for a very low or discounted fee, and then recommending

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that they themselves are appointed as executors, and offering other services without full advice, such as transferring the home into a trust in an attempt to avoid care fees. Terms and conditions can be poorly worded and difficult to understand. In secret filming undertaken by the BBC, an elderly couple were not told the details of charges which were confusingly set out in writing and then taken away by the Will writer.

The fear of solicitors' costs prompts some people to use Will writers instead of solicitors but this fear is often misplaced as many solicitors will prepare Wills for a fixed fee with free storage of Wills and other documents.

If you require a Will please contact us for a *free* no obligation meeting. If you already have a Will in place we are happy to review this *free* of charge to see if this needs updating to reflect your current circumstances or any recent changes in the law.

For more information please contact Tony Hall using the details overleaf.

The realities of dementia

The startling facts

It is a sobering thought that there are currently 750,000 people living with dementia in the UK, and it is estimated that this will rise to one million by 2025. When you think about the potential impact on family members and friends you realise just how big this problem is.

What if it happens to you?

But what would happen on a practical level if you were diagnosed with dementia? If you weren't able to manage your finances, who would pay your bills, deal with the bank, access your investments or if you needed to move, sell your house? Unless you have 'appointed' someone using a legal document called an Enduring or Lasting Power of Attorney your family will be left with no alternative – they will have to make a costly and lengthy court application before they can deal with your finances.

And if the worst happened who would decide where you live and what sort of care or medical treatment you should receive? Unless you have made a Health and Welfare Lasting Power of Attorney and chosen someone to make these decisions on your behalf there could be problems.

In so many ways we are always looking ahead – planning for the future, saving for our retirement, taking care of our families. And making a Lasting Power of Attorney should be added to the list – it is so important, and not just for the elderly.

If you would like to discuss any of the issues raised in this article please contact Caroline Pinney using the details on the front. We are happy to meet with clients at their home if that is more convenient.

I Do, I Do, I Do...

Did you know that 17% of all marriages in 2008 were remarriages for both parties? Of those couples tying the knot again 12% of the men and 7% of women were over 50.

Still, many people are put off remarriage through fear of another unpleasant and costly divorce. Maybe they fought hard to preserve their wealth first time around and don't fancy the idea of losing what they managed to hold onto. Perhaps they want to avoid the heartache. Divorce can be a nasty business.

The good news

But if you are considering tying the knot for a second time then there's some good news - the Courts in a landmark case have given the strongest signal yet that pre nuptial agreements

signed freely by couples where both parties clearly understood the terms of the agreement are likely to be upheld by the Courts should the couple later separate. The Courts will have the final say but the message is clear; if you make an agreement which produces a fair result on divorce you can expect the Courts to uphold the agreement.

Why make a pre nup?

The advantages of a prenuptial agreement are numerous:

- the couple decide for themselves how to divide their assets if they separate
- they can protect assets and wealth acquired before and after their marriage
- they can save significant legal costs if the marriage breaks down
- they can avoid the fall-out of wrangling over their assets
- they will have certainty

Radmacher

The landmark case related to wealthy German heiress, Katrin Radmacher (worth in the region of £100m). She finally succeeded in fighting off financial claims by her former husband, Nicolas Granatino, a French investment banker-turned-academic. At the insistence of Katrin's family, the parties signed a prenuptial contract in Germany before their marriage in 1998 which stated that Nicolas would not be entitled to any of Katrin's money if they divorced. Despite Nicolas trying to go against the contract, the Supreme Court has upheld a Court decision made last year which leaves him with enough money (a large sum but only a tiny proportion of Katrin's wealth) to meet his financial needs in his role as the father of the couple's two children.

So before saying "I do", take time to speak to Kim Aucott or another member of the family law team to discuss the best way to protect your assets.