



**A S S U R E D  
& L E G A L**

WILLS, TRUSTS & ESTATE PLANNING LTD

# Later Life Planning & Legal Services



Updated  
March  
2019

# Protect your share of your property

## **Sideways Disinheritance**

When you die, should your partner re-marry and then predecease their new partner, your half of the value of your property could be inherited by a family that you have never had any connection with. In some cases, your children could be disinherited. This is called sideways disinheritance.

## **Losing the Home to Costs**

Did you know that half of your home's value, maybe more, could be taken to fund care costs for your partner should they find themselves in need of care. If you own your property in joint names and you were to die while your partner was in

## What is a **Protective Property Trust**?

care then the whole property could be lost to your family to pay for care costs. At least half of the property can be protected for your beneficiaries within your will.

A Property Protection Trust is an affordable way to help protect your share of your home's value. You specify who is to inherit your share of your home. If the surviving partner needs care, your share may not be taken to fund care costs. Should the surviving partner re-marry, your share cannot be passed to another family. The

surviving partner can live in the home as long as they wish or until a set event such as remarriage or death, this is called a 'right of occupancy'.

## **Trusts within a Will**

There are other trusts we provide within wills such as Children's Protective Trusts, Disabled Persons Trusts and Discretionary Trusts which offer protections when taking individuals or certain assets into consideration.

*“Making sure your key assets are protected  
for loved ones...”*



# Jointly owned property and your will

## Jointly Owning a Property

Regardless of the relationship between the purchasers, a property can be held either as Joint Tenants or Tenants in Common

## Joint Tenants

In summary, if the property is owned as Joint Tenants it is presumed that the property is owned equally between the parties. When the property is owned as joint tenants an automatic 'Right of Survivorship' applies where in the event of one of the joint owners dying, their half share in the property will pass automatically to the other joint owner. Regardless of whether or not the parties

## Joint Tenants or **Tenants in Common?**

have made a will the Right of Survivorship applies, and a will cannot override the Right of Survivorship.

## Tenants in Common

If a property is owned as Tenants in Common the parties can own the property in equal or unequal shares.

When the property is owned as Tenants in Common, there is no Right of Survivorship. When one of the joint owners die their share would pass in accordance with their will.

If the will contains a trust and right of occupancy highlighted on page 8 then the share of the property belonging to the deceased can be protected for their beneficiaries against such events as sideways disinheritance or losing it to pay for the care costs of the surviving party should that event arise. If they have not made a will, the intestacy rules will apply to their share of the property.

If you are in doubt as to how you own your property simply ask us.

*“ .... a will cannot override  
the Right of Survivorship.... ”*

## Don't Lose **the House!**

As tenants in common you can, through your will and after your death, ensure that your share of your property passes to the parties that you want it to pass to, avoiding sideways disinheritance and the possibility that your share is lost to the payment of care costs should your surviving partner require care that needs payment for. Their share may be required for the payment of their care but your share can be protected for your chosen beneficiaries.

