

Problem solved

My partner is terrible with money. How do I ensure our children will be financially secure should anything happen to me?



Annalisa Barbieri
The Guardian, Saturday 14 August 2010

I've been with my partner for 20 years. We have three children, the youngest is two, the eldest eight. My partner is a good, kind man whom I love very much. He pulls his weight in the house but has one failing: he has never earned much and is not good with money (he is an artist). This has resulted in threats of county court judgments. The house is in my name and our accounts are separate. I've done this as a protective mechanism. I earn a good salary.

Recently, I had a health scare and this, coupled with other reasons – some romantic! – has made me finally want to get married. Our daughters are pleased and want to be bridesmaids. My parents are very fond of my partner but not keen on us marrying, saying they worry that if anything happens to me, he will not be able to handle the finances. They are concerned about the children's future, as am I. Is there any advantage to getting married? Can I leave things to my children in trust? *Vivian, Cornwall*

If you leave things as they are, your children are deemed your next of kin. If you were to die without a will, everything in your estate would be held in trust for them until they are 18. However, your estate would be liable for inheritance tax on anything over the current rate: £325,000. The worst thing you could do, given what you've told me, is to marry without making a will. This would mean your husband, who then becomes your next of kin, would inherit the lion's share of your estate.

I talked to Andrew J Kidd, a succession lawyer at Silverman Sherliker LLP about your case. I must point out that there are variables outside the remit of this column, so you must get specialist advice for your particular situation from a solicitor. Kidd advises that the first thing you must do is make a will and make sure that it is "in contemplation of marriage". Such a will would be valid even if you didn't get married but, importantly, wouldn't change if you did get hitched. Without this rider, any will you make would be invalidated by marriage.

You could certainly leave things in trust to your children, until they are 18, 21, 25 or whatever age you choose. This would mean appointing trustees (people you trust to look after your interests and your children's) to whom your partner/husband would have to refer, before he could move house or do anything to it.

Presumably, in making a will, you would want to balance the needs of your partner and his role as a father, while protecting your children's assets. You could do this by creating an "interest in possession" trust, which would, says Kidd, "allow your estate to pass to your husband for the rest of his life, allowing him the right to live in the home and enjoy the interest on savings, for example, while at the same time ensuring the capital passes intact to the children upon the death of your husband. A key benefit to such a trust is that the assets would never come within the legal ownership of the husband."

This would mean that even if your husband got into financial difficulties, his creditors could not come after your estate, as it would be held in trust for your children. You could also state that your children should inherit upon their father's remarriage or when they reach a certain age, as mentioned above. But bear in mind that your partner could

potentially be made homeless that way. Nothing your partner writes in his subsequent will can change what is in yours: ie, he can't then get remarried and leave your estate in trust to his new wife if he remarries.

Importantly, if you do get married and make such a will, when the estate does pass to the children, it would mean they wouldn't have to pay any inheritance tax on your death.

After your husband dies, the children would have today's equivalent of £650,000 free of tax: ie, two lots of inheritance tax allowance. This makes it very tax efficient.

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14 August 2010 3:57AM

One cautionary tale I'd like to tell in relations to leaving the house as an 'interest in possession' to your husband is this:

My grandfather died young, leaving my grandmother with three small children. They used this method so that if she re-married, the new husband would not gain access to the asset which he naturally wanted to remain with her and their children.

She didn't ever remarry, as it turns out, but she did end up living out her days in a house which just about fell down around her ears, and she could neither afford to do the repairs necessary, OR sell up and buy a low maintenance unit.

(I'm sure it could easily have been resolved by the three offspring sorting out the legalities of putting the house back in her name, but none of the four were exactly the proactive types.)

Another age and another country may make all the difference, but it does sound to me as though this could be an unintended consequence if you died: he has a house to live in but he can't afford to maintain it.

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14 August 2010 7:58AM

The legal advice is a sensible addition this week. But think about the relationships involved too, and whilst all is harmonious at present, be careful not to set people up for bickering or unfairness in the future.

The right kind of solicitor or financial advisor would help you sift through the various options, with this aspect in mind; the wrong kind won't eliminate a fee-earning quarrel the horizon - alas, this does still happen in spite of 'professional ethics'. If you choose a trustee let it be someone astute who's equal socially and well liked by the family, so that your resources can always be used for the right things, e.g. helping pay university fees or a deposit on someone's first flat.

It's hard to imagine how the future will evolve, so 10/10 for being a wise woman and I hope the wedding will be very joyous for all of you.

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[sparclear](#)

14 August 2010 7:59AM

sorry, should say "quarrel on the horizon"

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[snark1](#)

14 August 2010 8:27AM

I am a bit curious as to the partner's take on all this. The writer doesn't mention whether he also thinks it's a good idea to get married, nor what he thinks about the financial arrangements, nor exactly what "not good with money" means. (I don't buy the "he is an artist" excuse, because plenty of artists are well canny with money when they want to be).

Surely he has some input here, which must be taken into account. Moreover, the OP should realise that the fact of marriage, no matter how long you've been cohabiting before, often makes a difference to relationships. A dynamic which she has taken for granted before may change subtly or drastically afterwards.

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[Tekapo](#)

14 August 2010 9:56AM

Whatever solution you choose to do your partner will still have to manage the families finances if he ends up as a single parent. I would address the issue of why he so incompetent with his finances - maybe he should be a part-time artist.

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