

Response to Law Commission
Wills Consultation October 2017:
**Improving Awareness of the
Rules on Revocation of a Will
by Marriage.**

by **Emily Carroll**

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This paper is submitted by way of response to a 'Law of Wills' consultation event on 12 October 2017, hosted by Birmingham Law School on behalf of The Law Commission.

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Response to Law Commission Wills Consultation October 2017: Improving Awareness of the Rules on Revocation of a Will by Marriage.

by Emily Carroll, University of Birmingham, UK.

Introduction

In July 2017, The Law Commission launched a public consultation on reforming the law of wills. Following the publication of the consultation paper *Making a Will*, Birmingham Law School hosted a free public event on 12 October 2017 to enable the Commission to hear views from across society – from members of the public, doctors, care workers and civic groups, as well as members of the legal community.

This paper is submitted by way of response to the Law Commission's 'Wills Consultation' on 12 October 2017. I am a lecturer in the Law School at the University of Birmingham and a former real estate solicitor.

My comments are particularly focused on that part of the Wills Consultation that deals with the changing patterns of family life, including the increased number of cohabiting couples and people having second families; and to whom their property will pass after their death. My main response to the consultation is the recommendation of the inclusion of a prompt question.

Joint ownership is a difficult area of the law. It can lead to disputes when a joint owner dies, particularly where a previous will has been revoked by marriage, or formation of a civil partnership, without the joint owner's knowledge. Specialist property trusts and intestacy advice is not widely available on the acquisition of co-owned property from conveyancers. This could have unwelcome consequences for joint owners, including in the situation where the intestacy rules may not give the outcome anticipated by people who have remarried (thereby revoking their previous will) and have children from the first marriage.

One practical solution, might be to consider adding a prompt question into Panel 10 of Land Registry Form TR1 (transfer of whole) asking if purchasers have considered making or re-making their will at the point of acquiring the property.

The addition of a prompt question into Panel 10 could either be a standalone amendment intended to draw attention to the revocation of a will by marriage, or this amendment could be coupled with making completion of Panel 10 of Land Registry Form TR1 mandatory when jointly owned property is acquired. These amendments would both improve quality and consistency of legal advice on the organisation of equitable ownership where land is jointly owned at law by conveyancers and draw joint owners' attention to the rules on revocation of a will by marriage.