

# Step-families and succession planning

June 2023



**With increasing rates of re-marriage and the resulting blended families, parents need to take action if they wish to protect children from a previous relationship's inheritance.**

Any fans of the mega-hit TV series *Succession*, which follows the fortunes of the Roy siblings, will know how fraught inheritance issues can be when no clear inheritance plan is in place, especially when multiple spouses and stepfamilies are involved.

But it's a story that's not restricted to the super-rich like the Roys, as rising re-marriage numbers are creating more blended families and leading to inheritance disputes.

In [one recent case](#) to reach the High Court, three siblings were cut out of their inheritance when their stepmother changed her will in favour of their stepbrother after their father died.

In 2017, the McLean couple made 'mirror wills', where each reflects the other, so the outcome should be the same no matter who dies first. Those wills shared the couple's estate equally between four children, three from Mr McLean's first marriage and the younger son born during their marriage. When the older siblings found themselves cut out of the later will, they went to court, claiming that their father had trusted his second wife "implicitly" over the terms of the inheritance.

The court has to decide whether the doctrine of mutual wills applied to their stepmother's original 2017 will, which would mean there was an agreement between the couple to make wills with substantially the same terms and conferring reciprocal benefits and not to revoke them without the consent of the other.

Head of Private Client [James McMullan](#) explains:

*"For the doctrine of mutual wills to apply, there needs to be a contract between the two testators that both wills will be irrevocable and remain unaltered, and this agreement should be incorporated into the will, or through some other form of evidence. It is not enough to make a mirror or reciprocal will and show some general intention.*

*Without an explicit agreement not to revoke the will, any surviving partner may make a new will, with very different outcomes, and that's why it's important to be clear from the outset."*

While the McLeans must wait to hear the outcome of their case, the courts have upheld another [inheritance challenge](#) in similar circumstances.

After divorcing, the Colicci's signed a deed that covenanted that any shares they still held in their jointly-owned company would pass to their two children when they died. Both promised to make wills to support that. But the husband had remarried and later made a new will leaving his shares to his second wife, not telling his ex-wife or children what he had done. When he died unexpectedly, his later will was challenged successfully, as the court ruled that the original deed was a binding obligation which prevented either of the parents from making other arrangements to dispose of their shares on death.

According to the latest [Office for National Statistics](#) figures, almost 30% of marriages are now second or subsequent marriages. Behind the figure is a growing complexity in family structure, with stepmothers, stepfathers, stepchildren and stepsiblings.

James added:

*“Proper planning can help satisfy everyone, and decisions will depend on individual circumstances; this could be through mutual wills containing a clear declaration that neither side can revoke or change the agreed terms without the consent of the other.*

*Another option is to create a trust within a will. This can be a simple and effective way to make sure that the surviving partner has all they need while alive, but at the same time making sure that children from an earlier relationship do not miss out. It does require specialist help to get things right, but it means you can be sure things will play out as you intend.”*

A trust can allow each partner to leave their estate, or the bulk of it, in trust for the survivor and then to their children following the survivor's death. Trusts can allow for the use of any assets – such as a house or investment income – to support the survivor for the rest of their life, but with the assets held in trust - whether for children from an earlier marriage or a charity or anyone else - when the survivor dies.

**Plan for your succession today; call private client partner [James McMullan](#) today.**

**James McMullan**  
**020 7299 6902**  
[james.mcmullan@riaabg.com](mailto:james.mcmullan@riaabg.com)  
[www.riaabarkergillette.com](http://www.riaabarkergillette.com)



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