

# Loophole that lets gold-diggers wed vulnerable elderly

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Campaigners say reform is urgently needed as the population ages and cases of dementia rise  
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Gold-diggers are exploiting a legal loophole by marrying vulnerable elderly people and later inheriting their estates despite not being beneficiaries in a will, MPs and lawyers say.

Campaigners will sponsor a ten-minute rule bill in parliament today that would legislate to “stop putting marriages before wills”. They say that reform is urgently needed as the population ages and cases of dementia rise, leading to unscrupulous suitors marrying vulnerable people knowing that they will be deemed mentally incapable of drafting an updated will.

“This is a story that I could hardly believe was possible in modern Britain, but one which shows that our marriage laws are not fit for purpose,” said Fabian Hamilton, the Labour MP for Leeds North East, who has sponsored today’s bill, which under parliamentary procedure has little chance of becoming law.

Few people are aware that marriage invalidates previous wills. A person is legally intestate if they die after marrying and before drafting a fresh will. The spouse is then classed as next of kin and inherits all assets from smaller estates and a significant proportion in larger estates. The beneficiaries of an earlier will can make a legal challenge but the process can be long, costly and stressful.

Mr Hamilton was motivated to raise the issue by a case involving a constituent. “All the signs were that [the constituent] who was diagnosed with vascular dementia in 2011, was being exploited by the man who eventually became her husband in a secret marriage ceremony in 2015.”

Mr Hamilton added: “There is no training or any provisions set out for registrars to identify whether a person has the mental capacity to enter into a marriage contract at the ceremony.”

Sarah Young, a partner at Ridley & Hall, a law firm in Leeds and Huddersfield, who is leading the campaign for law reform, said that mental capacity thresholds for marriage were far lower than those for drafting a will. She said: “The classic example of a predatory marriage is an older person with cognitive impairments who is taken advantage of by someone who is much younger than them.

“The relationship, which may be kept secret, involves exploitation for financial or other gain. Sometimes the abuse may be carried out by a person who was originally a carer.”

Campaigners say that laws in the US and three Canadian provinces have been changed so that marriage no longer revokes a will. “In the UK this is a problem that is barely recognised at the moment but is almost certainly going to increase,” Ms Young said.

“Elderly parents of adult children, living alone and with declining cognitive faculties are particularly at risk. A change in the law is needed to address changes in society that have created a high risk of financial abuse of the elderly.”

### **Case study**

Mary Smith was 87 and in the early stages of dementia in 2011 when she was befriended by a 63-year-old man. Her daughter had concerns about the man’s motivation but no evidence of any wrongdoing. She had power of attorney because of Mrs Smith’s dementia and controlled her finances, but it was only after her mother died that she discovered that she had married the man.

Mrs Smith lacked capacity to make a new will after her marriage, so she died intestate and her entire estate passed to her new spouse. Police spent a year investigating the widower for the potential offence of forced marriage under the Anti-Social Behaviour Act 2014, but the Crown Prosecution Service did not bring charges.

*Mary Smith is a pseudonym*