

Will Why make a Will?



Fact Sheet



Introduction

When you die your estate must be dealt with. Making a Will ensures that any specific intentions you have for the division or disposal of your property, money and possessions after your death can be efficiently carried out.

A Will is particularly important when you need to:

- Provide for your children – especially if you are separated or unmarried
- Provide for an elderly or disabled relative
- Make provision for a friend
- Make a gift to charity
- Minimise administration costs
- Minimise tax liabilities
- Prevent added stress and worry to your family at a time of bereavement.

What if I do not make a Will?

If you die without making a valid Will, you are deemed to have died "intestate". Should this occur then the general laws of intestacy will apply to your estate and this could result in your affairs not being handled in the way you would have wished. This could lead to, for example:

- Your spouse receiving only some of your assets
- Distant blood relations benefiting – to the exclusion of friends and in-laws
- Your children from a previous marriage being disinherited

- Co-habitees being excluded from a distribution of the estate
- Statutory trusts being set up for children and grandchildren on terms you might not like
- Increased tax liabilities
- Increased cost of administering your estate.

Why use a Solicitor?

To ensure that your Will expresses your wishes and is legally valid. In addition, we can give you advice on related matters such as inheritance tax law and help you to make a Will which is less likely to be challenged than a homemade one.

What Gifts can I make?

- Personal belongings – you may wish to leave specific items to a particular person or persons. If so, it is important that this is clearly stated in your Will so as to avoid misunderstandings which could, for example, lead to items going to the wrong person.
- Legacies of money – you may wish to leave a specific sum to a particular person, for example, a grandchild. It is important that your Will deals with the position clearly and states whether any children have to attain an age greater than 18 before receiving the legacy.
- Residue – this means the remainder of your estate after payment of Inheritance Tax, debts, administration expenses and any legacies given in your Will. You may wish to leave the residue to one person or you may wish to divide it up between a number of people in equal or unequal shares.

A guide to making a Will

- Charity – you may wish to give the residue to charity. Again, this must be clearly stated. It is worth noting that bequests to charity are free of Inheritance Tax and can, therefore, reduce the overall Inheritance Tax liability of your estate.
- Children – we will be able to advise you on the best way to make gifts to children.

Providing for Children

- Guardians – you will be able in your Will to appoint legal guardians to care for your children in the event they are left orphans.
- Handicapped children – you will be advised about the best way to make provision for them, both immediately and in the long-term.
- Step-children or adopted children – we will advise you of the provisions you can make to protect their interests after your death.

Marriage and Separation

Any of the following circumstances will probably necessitate drawing up a new Will:

- Marriage – this invalidates an earlier Will entirely
- Divorce – can make part of a Will ineffective
- Separation – will not prevent a spouse from benefiting from a prior Will or under the rules relating to intestacy.

Do I need Executors?

Yes. Executors are the people who will be in charge of looking after (administering) your estate after your death. You need to decide carefully who they should be and specify them in your Will. It is possible for a person who benefits under your Will to be an Executor. If you wish, we will be pleased to act as your Executor.

Taxation

You can avoid burdening your Estate with unnecessary tax liabilities by taking advice before making your Will. Taking such advice may mean you are able to pay less tax and hence leave more money to your beneficiaries you may be able to make use of:

- Tax exemptions
- Lifetime gifts

- Gifts to children and grandchildren.

Trusts

Trustees may be appointed to hold money or assets in trust for beneficiaries under 18 or have a disability or others. It is important that Trustees are given special powers to enable them to carry out your wishes. Trustees can be your executors.

Signing and Safe Custody

There are very strict rules to be followed when a Will is signed and witnessed. Your Will and/or any other important documents should be kept in a safe place and may be kept in our safe storage.

Changing your Will

You may change your Will as often as you wish. If you want to make major or a number of changes, this will require a new Will. A few or minor changes can be effected by means of a "codicil". This is a legally binding amendment to the Will which makes the appropriate alteration but confirms that the rest of the Will remains valid. In no circumstance must you attempt to change your signed Will by crossing out a section or simply writing in a new provision.

Updating your Will

Whether or not major changes have occurred in your life, you may find that your Will needs to be updated from time to time. Generally, you should review your Will at least every few years or where there is a change in your life and ensure that its provisions accurately reflect your circumstances.

There are, however, certain situations in which you must update your Will:

- Marriage (or re-marriage) – which cancels a previous Will
- Divorce – where a former spouse will be treated as if omitted from your existing Will
- Separation – which does not affect a Will or entitlement on intestacy. However, you may want to ensure that gifts are not made.

You should also ensure that your Will is up to date following the birth of children, receipt of inheritances, family deaths and other major changes in your circumstances or in your family.