

A Guide to Wills



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Why make a Will?

Making a Will does not need to be expensive, but it is important to ensure that your money and other assets are distributed to those persons you wish to benefit and in a manner reflecting your intentions.

If you die without a Will, your estate will be administered and distributed in accordance with the intestacy laws. The extent to which members of your close family will benefit from the estate would then be determined by law and not by yourself. Your spouse could be left with insufficient means, and certainly no one beyond your immediate family could expect to benefit from your estate without recourse to the courts.

If you are married, have a heterosexual unmarried partner or a same sex partner (whether the relationship has been registered as a 'civil partnership' or not), you should both make a will at the same time. Whilst many families will have benefited from Nil Rate Band changes made in 2007 the implications of Inheritance Tax should still be considered, and an effective Will can often help to mitigate any liability.

If you already have a Will

If you have already made a Will, you need to consider whether it is still valid. Under English law, a Will is revoked at the time of marriage, unless it was made in contemplation of that marriage. The Scottish law regarding Wills is different to English law and, whilst marriage would not revoke a Will under Scottish law, it is essential to review your Will at that time.

Where there is any major change in personal circumstances, such as marriage, divorce, the birth of a child or a death within the family, your Will should be reviewed.

Inheritance tax

Wills can play a very important part in Inheritance Tax planning. Where an Inheritance Tax liability exists, your Will can be used a cost effective way of mitigating this liability particularly where assets within the estate are expected to grow at a faster rate than future increases in the Nil Rate Band.

Executors and trustees

The choice of executors is critical. You could select a family friend, close relative, an independent expert or, of course, a combination. It is important that those chosen are both willing and competent to cope with any problems that might arise.

The executors of your will are ultimately responsible for administering your estate in accordance with your wishes, settling debts and testamentary expenses, and dealing with all your assets. Even if your affairs are straightforward, there is considerable work involved in carrying out the task of administration.

The responsibilities of an executor can be onerous and it is not always appropriate to appoint a member of the family alone. The administration of an estate can be complicated, and this is especially the case where an individual holds a significant investment portfolio, a business interest, or agricultural or other land, the distribution of which will almost certainly involve difficult decisions.

Where a Trust is created by your Will, Trustees will also need to be appointed. Trustees have a responsibility to invest funds according to the terms of the trust, making appropriate investments where necessary. Accounts must be submitted to the Inland Revenue each year and a continuing presence may be required from the trustees for many years.

Some good reasons for making a Will

- To make life simpler for your family on your death
- To ensure your property goes to those you want to benefit - in the proportions you decide
- To ensure your spouse or partner is not deprived of the family home
- To ensure a common law partner benefits, as you would wish
- To appoint a guardian for your children
- To ensure specific gifts are made according to your wishes
- To help mitigate the Inheritance Tax on your estate
- To ensure any change in your circumstances e.g. marriage, does not accidentally revoke your wishes

Advice on Wills

Clients are advised to contact their own solicitor. Alternatively, We can offer further Assistance.

For further information or to book an initial consultation, please call us on 0208 722 0734.

The Financial Services Authority do not regulate the writing of Wills.

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