

MAKING A WILL



No one likes to think about death. However, taking steps to plan for what will happen to your estate when you die will lessen the burden on family. You can prevent unnecessary problems and potentially save your estate money by making a Will that reflects your wishes and financial circumstances.

WHAT IS A WILL?

A legal declaration of how your property is to be disposed of upon your death. A number of requirements must be fulfilled to ensure it is valid.

WHAT HAPPENS IF I DO NOT MAKE A WILL?

The Rules of Intestacy will apply in the absence of a Will, setting out who will inherit your estate. The Rules may not reflect your wishes. Unmarried partners, and partners who have not registered a civil partnership, will not inherit automatically.

WHAT INFORMATION DO I NEED?

Work out the approximate value of your estate. Include cash, investments, properties, business assets and joint assets. Also include any liabilities you have. Your solicitor will be able to calculate whether your estate is likely to be liable for the payment of Inheritance Tax and advise as to what steps should be taken to try and minimize or avoid this liability.

CHOOSE YOUR EXECUTORS CAREFULLY

Executors are responsible for distributing your estate in accordance with your Will. You need to choose them carefully and be confident that they will be able to handle the task. You could consider appointing Wilson Browne Solicitors, in the knowledge that matters will be dealt with properly by highly experienced professionals, which could reduce the burden on your loved ones.

CONSIDER APPOINTING GUARDIANS

Appointing someone as a guardian gives that person Parental Responsibility for your children who are under 18, meaning that they have the right to be involved in major decisions about the children, such as living arrangements, schooling and medical treatment. Informal arrangements not put in the Will would not suffice for this level of involvement, since only the Court would be able to make a formal appointment of a guardian if you didn't.

CONSIDER THE DISTRIBUTION OF YOUR ESTATE

There may be specific assets or cash sums that you wish to leave to specific individuals. There may be business assets which need to be dealt with. You may wish to leave your estate to one, or a number of people in specified proportions, and make provision for what would happen if any of those people died before you. All of this should also be considered from an Inheritance Tax perspective, as the distribution may have a bearing on the overall tax position.

DO I NEED TO SET UP A TRUST?

Trusts can be extremely useful. You may wish to provide for a child, or a disabled beneficiary, or those unable to deal with their own financial affairs. You may have children from a previous relationship, and want to ensure that all involved benefit from your estate to varying degrees. Or you may have complicated circumstances which are difficult to resolve right now, which may be better suited to decisions being made in the future, rather than in the Will at this moment. All of these scenarios can be catered for by the use of trusts. Of course, there are also tax consequences, and sometimes trusts can prove very tax efficient.



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KEEPING YOUR WILL UP TO DATE

Once you have made a Will, it is important that you keep it updated, both from a personal and tax perspective. The law changes fairly regularly, as do personal circumstances. It is wise to review your arrangements regularly, and in view of any significant life events that take place.

When it comes to updating a Will, think about what may have changed:

- A marriage or civil partnership automatically revokes an existing will (although conversion to marriage from a civil partnership does not)
- Divorce
- Death of a beneficiary, executor or guardian
- Changed relationships
- Gifts of specific items – if you no longer have the particular item or want it to go to someone different
- Foreign property
- Business interests – if you have started a new business or your business interests have changed
- Insurance policies – if you have acquired a financial product with a life policy element
- Trusts – if you have acquired an interest under a trust
- Wealth – if you have acquired greater wealth, tax planning would be sensible.
- Long Term care requirements – you may be able to mitigate its impact.

If you're thinking of updating a Will or are concerned about whether you should, there's nothing to lose – we offer FREE Will health check regardless of who drafted your Will.

If your Will is fit (for purpose) and healthy we'll tell you. If we think you should be bringing your Will up to date to reflect your changed circumstances we will advise you about the things you should be considering. Either way, it's free and without obligation.

CONTACT US

We strongly recommend seeking professional advice before making or updating a Will. For more information please contact your local office or email us at the address below.

OTHER THINGS TO CONSIDER

Having a 'proper', professionally drafted Will by a regulated solicitor will help avoid problems in the first place.

Regardless of why, you may find yourself in the position of having to contest a Will, perhaps to protect the interests of a loved one or someone vulnerable. There is no substitute for proper advice from a professional, but as a starting point, it's always good to know a few basic details before deciding how to proceed. There are three main reasons for contesting a Will:

- You do not think a Will is valid and want advice on contesting it
- You do not think that you have been properly provided for in a Will or intestacy (where there is no Will)
- Someone is disputing or contesting a Will or making a claim against a Will/Estate and you need to defend the claim

Before you launch yourself into contesting a Will, be clear on why – the Court will consider the validity of a Will for the following reasons:

- Lack of testamentary capacity
- Lack of knowledge and approval
- Undue influence
- A fraudulent or forged Will
- Lack of valid execution of the Will
- The Will needs to be rectified or there is a dispute about the way in which the Will should be construed

If you think there are grounds then contact us as soon as possible.

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