



Why make a will?

Providing for your loved ones in the way that you want

Many people don't thoroughly plan for the future after they are gone, and often incorrectly assume that after their death, their assets will simply pass automatically to their spouse/partner or children. Often people believe their assets are too insignificant to need a formal arrangement or legal guidance.

However, if you die without having made a will, the intestacy rules apply in an arbitrary manner. The only certain way to ensure that your spouse/partner or relative inherits what you intend is by making a will. You can specify who receives your assets, rather than the intestacy rules resulting in assets passing in a way you didn't want.

At present, the intestacy rules do not recognise co-habitees who are unmarried and not in a civil partnership so they would receive nothing under the intestacy rules. The estate will automatically pass to your surviving family (i.e. children, parents, brothers and sisters) and your partner will have to make a claim on the estate claiming financial dependence if appropriate.

Important considerations

The appointment of executors

In your will you must appoint one or more executors to deal with your estate in the event of your death and where property is to be held in trust, for example while a beneficiary is a minor. The role of executor is very important and you should appoint people who have the right set of skills and in whom you have confidence – be they business-minded family or friends and/or professional advisors.

Burial arrangements

You can provide for specific funeral arrangements in your will. This is particularly important for some clients. Some people ask for their body to be donated to medical research.

The appointment of guardians

If you have children under the age of 18, one of the most important reasons for making a will is to appoint the appropriate people to look after them. You can safeguard your children's interests by appointing legal guardians to care for them if both parents die. Before you appoint someone to be a guardian you should check that he or she would be happy to act.

Passing on your assets how you want

Personal items such as jewellery, paintings and heirlooms can be passed on in your will in several ways, one of which is using an informal letter of wishes. You can benefit good causes by leaving a legacy to charity, free of inheritance tax. Larger estates may be able to benefit from a reduced rate of inheritance tax of 36% if, subject to certain rules, more than 10% of the estate is left to charity.

Blended Families and keeping control over assets

Wills can be used to provide for complex family arrangements, for example to include children from previous relationships. A will can give a second spouse the right to occupy the family home, while protecting the capital for children of an earlier relationship. This will ensure that the assets will not pass outside the immediate family and may pre-empt potential challenges to the distribution of the estate.

Asset protection

An ageing population means that thousands of homes are sold each year to fund the cost of residential care. A carefully drafted will can provide that your share of the family home passes into a trust on first death, which may give the survivor a right to occupy. With care, such a trust will ensure that the capital will be preserved and instead pass to the intended beneficiaries. A trust of this type can be drafted flexibly to allow the survivor to 'down-size' or move property.

Trusts can protect assets should future generations suffer financial or matrimonial difficulties, or if the beneficiaries are not mature and responsible enough to own large sums of money. The trustees will be able to take each beneficiary's personal circumstances into account.

Trusts may have long-term inheritance tax advantages in cases where capital appreciation is anticipated to outstrip future increases in the tax free amount.

Trusts can also be used to benefit future generations by potentially by-passing children to benefit grandchildren or further generations. Trusts can run for a maximum of 125 years so can look after several generations of family.





Your will can also direct your business interests, such as shares in a family company or a farm, to specific beneficiaries, for example, a son or daughter who has come into the business. An important inheritance tax relief can apply to these interests giving discounts of either 100% or 50%.

Business and agricultural interests can often be dealt with through a discretionary will trust, which may offer additional tax savings, while also providing for flexibility between beneficiaries.

Making your will and keeping it up to date

Even if you have already made a will, it is important to keep this under review regularly (at least every five years). The world does not stand still and your family circumstances and relevant taxation laws will change.

It is also important to note that most wills are revoked by entering into a marriage/civil partnership and that divorce/dissolution also affects the interpretation of your will.

Speak to us today about your will



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