

### Introduction

Most of us spend many years working, providing for our families, accumulating assets over time and planning for retirement, and while some will have thought about how they wish their assets to pass on death, for others it is something they have not found the time for or have chosen to ignore.

The importance of a professionally drawn Will should not be underestimated. It is the legal means by which you pass on your assets to those you wish to benefit on your death and for many, one of the most important steps you will take towards ensuring your family's financial security into the future.

Without a Will, the law of intestacy governs who benefits from your assets when you die. It will work for some, but for others it will produce an unexpected outcome that does not reflect their wishes and causes considerable distress for those left behind.

At HCR Hewitsons, our Private Wealth Team specialises in the preparation of Wills. We pride ourselves on our expertise and our straightforward, friendly approach. Our aim is to guide you through the process with sensitivity and understanding, helping you to consider the various aspects of relevance, balance the needs of different family members and ultimately put in place a Will which gives you peace of mind.

There are many benefits to a professionally drawn Will.

- You choose who you wish to be your executors and trustees.
- You can include your funeral wishes.
- You can appoint guardians for children under the age of 18. This is particularly important where there are members on both sides of the family willing to take on the role.
- You can state how you wish your personal possessions to be distributed.
- You can provide for the needs of other family members eg an elderly relative with limited means.
- You can leave cash legacies (specified amounts) to individuals or organisations.
- You specify how the residue of your estate is to pass. The residue is the amount in the estate after debts, administration expenses and legacies and is usually the main part of your estate. This may be to a spouse or (if your spouse dies before you) to your children. It may be to other family members, friends, charities or a combination of those.



- You choose the age at which children should benefit. Without a Will, the law of intestacy states that children benefit at 18. You may feel it is more appropriate that they should benefit at say 21 or 25. The Trustees will have flexible powers to make distributions to them before that age.
- You can state what should happen to a beneficiary's share if they die before you.
- You can take into account Inheritance Tax considerations, which may result in a significant tax saving.
- You can, where appropriate, consider the inclusion of Trusts eg to provide for a spouse as well as children from a previous marriage, or to provide for a vulnerable beneficiary.
- For couples who live together but are not married, Wills are vital because the law of intestacy does not provide at all for an unmarried partner.
- You do not leave your estate to be dealt with under the law of intestacy. It gives considerable comfort to those close to you, knowing that you have given thought to your wishes and set them out in legal form.

There are other points which should be borne in mind.

Under English law, you can leave your assets as you choose in your Will. There is, however, a 1975 Act which enables certain people to make a claim against an estate on the basis that the Will (or the effect of the intestacy rules) has not made reasonable financial provision for them. Where relevant, we can advise on this aspect.

If you marry after making a Will, the Will will be revoked (cancelled) by the marriage – unless the Will states otherwise. If you have married without putting a new Will in place, or you are intending to get married, you should take advice.

If you get divorced after making a Will, all gifts to your former spouse will be cancelled, as will their appointment as executor. The rest of the Will will stand.

You should reconsider the provisions of the Will in those circumstances and look at putting a new Will in place.

Jointly owned assets will usually, although not always, pass to the other joint owner on the first death rather than under the terms of your Will. This should be considered as part of the overall picture.

Once a Will is in place, it should be kept under regular review and reconsidered in the light of tax changes or a change in circumstances.

A word of caution. A badly written Will can prove very costly, both in terms of legal costs in sorting out uncertainties and disagreements, and in unnecessary tax. You should check the qualifications and insurance of the person writing the Will. A Solicitor who is also a STEP member has a very different duty to you and your family than, say, a 'Will Writer'. Furthermore, homemade Wills invariably give rise to problems and often lead to significantly higher costs than an estate with a professionally drawn Will.

At HCR Hewitsons, all Solicitors involved in the preparation of Wills are full members of STEP (the Society of Trust and Estate Practitioners) or are supervised by colleagues who are full members of STEP. If you would like to talk to us about getting a Will in place or updating your existing Will, please do contact us. We would be pleased to help.

## Talk to us...



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