

Wills



Help & Advice



Wills

What is a Will?

A Will is a legal document in which a person (The Testator) sets out what they want to happen to their property after their death. It can also deal with matters such as funeral arrangements and who will look after children.

The Will must be carefully worded and correctly executed and witnessed in order to be valid.

Who should make a Will?

Everyone. It is important for everyone to have a Will in place. It is particularly important for anyone who has children, substantial assets or a complex family situation. If not, your property and affairs may not be dealt with as you would have wished. The State will dictate who inherits and your friends, certain relatives and favourite charities will not be included.



What if I die without making a Will?

You will be intestate and:

- A great deal of stress, worry and disagreement may be caused within your family as to who will manage your affairs and who will inherit from you;
- Substantial delays may be caused in dealing with your estate;
- Your property may not go to the beneficiaries you would have chosen;
- Your spouse may not necessarily inherit everything you own;
- A court may decide who will take care of your children;
- Friends, stepchildren, godchildren, and unnamed partners will not inherit from you;
- Inheritance tax may be payable unnecessarily when arrangements could have been made to make sure that all of your money was left to your family;
- Those who inherit may spend your money as they like, and not as you may have wanted.

Points to Consider

1. Make sure your Will is updated when and if your circumstances and wishes change e.g death or marriage of relatives, or an increase or decrease in your assets.
2. A reputable solicitor will never resort to cold calling. If anyone telephones you or knocks on your door to discuss these very personal issues do NOT divulge your personal or financial information to them.

Can a Will be contested?

A Will may be contested if:

- It is invalid because the testator did not understand what they were doing, was under undue pressure or influence or did not correctly execute the Will;
- It does not adequately provide for someone who is entitled to benefit from the estate e.g. a dependent or spouse who can claim that they should reasonably have been provided for in the Will;
- It has been revoked or replaced by a later valid Will;
- It is a forgery.





What do I need to think about?

Some points to consider:

- Who should I appoint as Executor(s)?
- Who should I appoint as Guardian(s)?
- Is there any specific item I wish to leave to any person/people/charity?
- Is there any specific amount of money I wish to leave to any person/people/charity?
- What else will happen to the rest of my estate? If I leave it to more than one person, will it be in equal or unequal shares?
- Do I want to create a trust whereby some Beneficiaries will not receive a lump sum but an interest in an asset to be held on trust? We can explain these difficult issues in clear terms.

How do I make a Will?

It is strongly recommended that you instruct a qualified Solicitor to prepare the Will for you. If the Will is not prepared and executed properly, it may not do exactly what you want and may even be invalid.



When should I make a Will?

In England and Wales anyone over the age of 18 can make a Will. You should consider doing so particularly if you are thinking of getting married or entering into a civil partnership, if you own anything jointly with another person, or if you are getting divorced.

If you marry, any previous Will becomes invalid unless you have added a specific clause to deal with this. Many people decide to make a will when they have their first child.

People involved in making a Will

The following are the different people involved in making a Will:

The Testator

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The Testator (or the Testatrix if female) is the person making the Will.

The Executor

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The Executor is the person appointed to manage your affairs. You should appoint someone who knows you well and is able to take on the responsibility. The Executor should be over 18 and not bankrupt. Consider appointing two in case one could not take on the role or think about a possible replacement in this case.

The Guardian

The Guardian is the person you would like to appoint to take care of your minor children in the event of the death of both parents. It is an expression of your wishes, although not legally binding.

The Beneficiary

The Beneficiary is the individual, group or charity to whom you leave some or all of the property.

The Witness

This is one of two people (not a Beneficiary) who witness your signature on the Will. If the Will is not correctly signed and your signature witnessed in this way, it will be invalid.





If you would like to chat about making a Will or just need some general advice, please contact either:

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