



WILLS FACTSHEET

Making a Will allows you to put in place precise plans for what you would like to happen to your money and possessions when you pass away.

By preparing your Will you can ensure that you will leave a legacy on your own terms for your loved ones and those who are important to you. You can also specify your wishes with regards to who should look after any children you have under the age of 18, and how they will be financially provided for.

If you do not prepare a Will, the rules of intestacy will apply, meaning everything you own will be distributed according to the rules set out in law and the future of any dependents you have could be decided by strangers in a Court room.

By making arrangements now, you can make sure that your wishes are recorded correctly in a formal Will and that those you care about will not go without when you die.

That is why it is important to get your Will prepared today.

Do I need a will?

Yes, if you own or have any money, property or possessions, you should consider drawing up a Will or reviewing any old Will that you already have in place, as essential.

A Will enables you to decide and direct what will happen to your money, property and possessions upon your death.

Without a will, the law will decide who should take control of your affairs and how your assets will be distributed.

It is therefore in your best interests to ensure that you make your wishes expressly known through your Will.

Also, if you have any children and if you have younger children you will want to ensure you have expressed guardianship wishes.

You may have specific burial wishes or you may want to bequeath money to a charity.

How is enforcement of the Will ensured?

An executor(s) and trustee(s) (usually the same individual(s)) is the person appointed by you in your Will to deal with the distribution of the assets and administer your estate (i.e.: all of your possessions).

There are legal obligations upon the executor to act as per your instructions. Your choice of executor is therefore key and should be someone responsible and trustworthy. To minimise the need for any amendment to your Will if an executor / trustee predeceases you, it is often recommended to appoint a minimum of two executors, but the Will is still valid with just one. Some people like to appoint the lawyer who drew up their Will as the executor, but you are free to choose whoever you wish.

What about inheritance tax considerations?

We can help identify and manage your tax liabilities to ensure you do not pay more than you should.

Inheritance Tax (IHT) is currently set at 40% and may be imposed upon your estate on the date of your death.

The current IHT threshold is £325,000.00 and will remain this way for 2020/21. The IHT threshold (or 'nil rate band') is the amount up to which no IHT is payable. If the estate – including any assets held in trust and gifts made within seven years of death – is more than the threshold, IHT will be due at 40% on the amount over £325,000.00 (this amount changes regularly and it is advisable to check for any changes to this limit at the time of making your Will).

What should I include in my Will?

You can include anything from personal pensions, insurance policies and property to shares and personal belongings. You should consider how much money, property and possessions you have, and to whom you would like to leave these to.

You should consider what specific funeral arrangements are important to you. Also, consider what would happen if your death occurred abroad. Should your body be repatriated to the UK, for example.

Also if you have children under 18, give thought to who you would want as their guardian(s); would you want a particular type of trust arrangement set up to manage monies that they might receive when they reach adulthood.. We can help you to navigate through all of these considerations to find the right solution for your circumstances.

Difference between Executor and Beneficiary?

Beneficiaries are the people who you want to inherit your assets and possessions whereas executors are the people who you want to administer your estate once you have passed.

Common practise is to appoint the same individuals, i.e.: an executor can also be a named beneficiary.

Can I draft my own Will?

You can draft your own Will but you must ensure it is valid. The language of Wills can be confusing, we have seen how 'Off the shelf' cheap Wills can result in serious difficulties and complications for the beneficiaries. For instance, failing to ensure that the Will has been properly executed will likely result in the Will being deemed invalid and thus your wishes will give way to the intestacy rules.

It is therefore advisable to instruct a solicitor to draft your Will to ensure it has the effect you intended it to. Solicitors can ensure the Will is valid and can also store copies so they are safe and easily located.

When considering your Will, you should consider the tax position and any way of making it tax efficient to reduce or even remove any liability payable when you die. Without proper professional advice on this, it can easily be forgotten and lead to a huge tax bill payable by your beneficiaries later on.

Can I change my Will once It has been drafted?

You can change your Will as many times as you would like. It is advisable to review your Will once a year, especially if considerable life changes take place, such as getting married, having children or getting divorced. If you would want to make significant changes, it is better to write a new Will as opposed to altering the original Will. A properly drafted new Will should replace and make void any pre-existing Will.

What is a Codicil Document?

If you wish to change the executor or add a gift you do not necessarily need to have the Will redrafted. You can make amendments using a document called a Codicil – this is a document that allows you to make amendments to an existing Will instead of re-drafting an already written version and is often a much cheaper way of managing this. However, very detailed changes are best dealt with by preparing a new Will.

Does my Will cover all jurisdictions?

A Will may be drafted to incorporate worldwide assets but a foreign jurisdiction may not recognise the legal validity of an English Will. Therefore, an English Will cannot cover all countries for any asset you own overseas. In some cases, the estate will pass in accordance with the inheritance laws of the country in which it is situated. You may need to prepare a second Will in the country where the asset is in order to deal with it properly. You should seek legal advice about this from a reputable lawyer from the country in question.

What happens if a person dies without a Will?

If you pass without a Will, your assets are passed through the courts for distribution under the laws of intestacy.

If you pass without leaving a Will and you are married, your spouse first inherits your estate subject of course to the Inheritance Tax. This is why it's crucial to ensure you have a Will in place.

If you pass without a living spouse, the estate passes on to your children, if any, in equal shares. If there are no children and no spouse, the state will attempt to find any other living relatives and pass the estate to them according to the rules of intestacy. In the case where there are no blood relatives, the estate passes entirely to the Crown.

What happens to my estate if I am not married but I have been with my partner for a number of years?

If you and your partner are not legally married then they are not automatically entitled to any of your assets when you pass. If you have children, then they will be inheriting your estate in equal shares upon gaining majority (i.e.: reaching 18 years of age). If you have no children, then your estate will go to your parents if they are alive. Otherwise, it will go to siblings and then nephews and nieces. If you still have no traceable relatives, your estate will revert to the Crown.

Can I make specific requests about organ donation and burial arrangements in my Will?

Owing to recent legislative changes, all adults in England will be considered to have agreed to be an organ donor when they die unless they have recorded a decision not to donate or are in one of the excluded groups. You should consider this when drafting your Will along with your funeral arrangements.

Funeral wishes can be included within your Will. It is important to note, however, that firstly, funeral wishes are not legally binding but the decision to include it in your Will can provide some guidance to your family in respect of carrying out the arrangements.

To have your Will prepared by one of our Will specialists, contact us now on 020 3588 3500.