

9 Reasons to Make a Will

Death is something most of us would rather not think about and maybe this is why over 60% of us die without ever having made a Will.

Many of us erroneously believe that...

- 'It is too expensive' or
- 'everything I own will go automatically to my spouse or my children' or
- 'my assets are too insignificant.'

These are common misconceptions. There are many good reasons for making an efficient well-drawn Will that will keep pace with your changing circumstances. Some of these are outlined in this leaflet;

1. Intestacy Rules

The only certain way to ensure that your spouse, partner or relative etc. inherits what you intend is by making a Will. If you die without having made a Will, the **intestacy rules** apply in an arbitrary manner, particularly if there are no children. This may lead to your spouse having to share your estate with relatives (e.g. brothers and sisters, aunts and uncles) whom you may never have intended to benefit.

Where the order of death between a husband and wife is uncertain e.g. an air crash, certain unintentional consequences may arise. In England and Wales the law assumes that the younger survives the elder. Where a married couple without children die in such circumstances the effect would be that all the family's assets go to the younger spouse's nearest living relatives, to the exclusion of the older spouse's family. This legal presumption can be varied by your will.

At present the intestacy rules do not recognise **co-habitees**. Therefore, if you live with your partner and die without having made a Will, your partner will not automatically inherit any of your estate. 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. If you have children together with your partner then they will automatically inherit the estate, and both your partner and your children will have to get separate legal representation in order to fight for a share in the estate. This is expensive and obviously a situation that should be avoided and a simple Will is all that is needed to ensure that your partner and your children are provided for.

2. Home-Made Wills

These wills should be treated with caution and should only be used in the most straightforward of circumstances. Some homemade wills can be disastrous: for example omitting to cover the position if the main beneficiary does not survive; referring to assets which are not owned on death. Have your Will drafted by a properly qualified professional.

3. Funeral Arrangements

You can provide for specific funeral arrangements (i.e. burial, cremation, or the use of your body for medical research).

4. Children's Interests

You can safeguard your minor children's interests (i.e. children under 18 years of age) by appointing **legal guardians** to care for them if both husband and wife have died e.g. in an accident.

5. Business Interests

Your Will can also direct your business interests (such as shares in the family company) and farming interests to those intended, e.g. a son or daughter who has come into the business. An important IHT (Inheritance Tax) relief can apply to these interests giving discounts of either 100% (i.e. complete exemption) or 50%. In most cases, it is only necessary for the individual to have owned these business assets for 2 years: contrast the 7 years for other 'potentially exempt transfers'.

6. Personal items

Your personal effects such as jewellery, paintings and heirlooms can be dealt with in the Will and by reference to an informal letter of wishes.

7. Benefiting Charities

You can benefit your chosen good causes by leaving a legacy or share of your estate to charity, free of IHT (Inheritance Tax) .

8. Executors

You must appoint *Executors* to deal with your estate in the event of your death and hold property on trust for example while a beneficiary is a minor. These Executors have a very important role to play and should be either business-minded family or friends and/or professional advisers. To some extent Executors can act before grant of Probate, which is when the probate registry sends out a legal document that allows one or more people to deal with the estate. Two is an ideal number made up of, say, one family member and a professional.

9. Dying Intestate

The consequence of **dying intestate** (i.e. without having made a Will) can prove both complicated and expensive. At a stressful time for your family and friends such worry, complications and expense can be avoided through making a correct Will. Even if you have already made a Will it is important to keep this under **review** at regular intervals (at least every five years).

The world does not stand still and in particular your family circumstances and relevant taxation laws will change. Remember also that currently in a **two year period** following the death, the terms of a Will can be varied or disclaimed by an appropriate document entered into by the persons involved. This may, however, be prevented by future changes in the law.

Can you afford not to make a will? If the answer is 'no' then we would be pleased to help.

If you require advice regarding your particular circumstances, please telephone us to speak to one of our specialists in this field.

Or REQUEST A CALL BACK at a time convenient to you.

NOTE: This guide assumes that English and Welsh law is applicable. Different laws apply in Northern Ireland and Scotland and in respect of property owned in other jurisdictions.

Disclaimer

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