

WILLS

Why make a Will?

If you don't make a Will, any of the following could happen:

- Your estate may not pass to the people you want to benefit from your estate.
- Your personal representatives, *i.e.* the persons responsible for administering your estate may not be those you want.
- Your estate may be subject to needless costs and expenses.

But if you do make a Will, you can choose your executors, beneficiaries and have the chance to save unnecessary expense – perhaps save on Inheritance Tax, and you can appoint guardians for minor children and express your wishes concerning burial or cremation.

Why go to a Solicitor?

A Solicitor will:

- Help you clarify your own ideas and discuss a number of options with you.
- Can provide solutions for difficult problems, e.g. if you have step children.
- Use legal expertise in drafting the Will and have knowledge of related law, e.g. trusts, tax and property law.
- Ensure that your Will cannot be challenged after your death and explain to you why, and how, it could be challenged in certain circumstances.

How much will it cost?

Please ring and speak to a member of the Wills and Estate Planning Team, who will be able to give you a fees estimate. The cost will largely depend on the complexity of the drafting.

Our charges include a meeting with one of our Wills & Estate Planning Specialists to discuss your Will and all the implications. The draft Will(s) are then sent to you for approval, with a detailed explanatory letter talking you through each clause in detail. We also supervise the signing and witnessing of the Will, in accordance with special rules, and can also offer you a free of charge storage service.

Your Will

1. Executors

You will need to choose reliable persons to administer your estate in accordance with your wishes in your Will. As many as four people can administer an estate. It is a good idea to appoint more than one person, in case one of them dies before you. If you only want to appoint one, then think of a substitute who can act in the event that your first choice has died before you, or cannot act for any reason. You can choose your spouse / partner / an adult child / friend / colleague or a professional person, e.g. Accountant or Solicitor, who may charge for their work. Trustees are sometimes required if the Will establishes a trust, e.g. if some of the beneficiaries are under the age of 18. Normally the same persons appointed as Executors act as Trustees too.

2. Guardians

If you have children under the age of 18, then you should think about appointing Guardians for your children. They are the persons who will be responsible for any minor children on the death of both parents. Guardians should be carefully chosen and you should make sure they are willing to act. If one parent dies, then usually the appointment will not take effect until the second parent has also died.

3. Funeral Wishes

You have the right to choose whether you want to be buried or cremated and the circumstances of the funeral. However, these wishes are not binding on your Executors, who ultimately have the right to decide. However, if you have chosen your Executors carefully they will, no doubt, abide by your instructions and wishes.

4. Your Estate

You will need to consider the extent of your assets and what you want to give to your beneficiaries. Gifts of particular items, e.g. property, furniture, car, jewellery, are called “*specific gifts*”. Gifts of money are called “*pecuniary gifts*”. Frequently, if you want to leave a list of specific items to a number of beneficiaries, then it is possible to leave a letter of wishes with your Will, as long as the Will is worded in a special way. This letter can be changed a number of times before death, without changing the Will.

5. Your Beneficiaries

You can choose your Beneficiaries and if there are issues to be considered, the Solicitor can discuss them with you in detail. For instance, if you have children from a previous marriage, step children, want to ensure certain close relatives do not benefit, etc. We will need the full names and addresses, and ages of minor beneficiaries.

6. Your Residuary Estate

Anything in your estate you have not specifically bequeathed to anybody, i.e. the remainder, is called your "residuary estate". From this your funeral and administration expenses and any Inheritance Tax will be paid. The residue will usually pass to the surviving spouse, or if there is no surviving spouse, then to children. Even though the youngest age children can inherit is 18, you may want to change this to, say, 21 or 25.

7. "Long-Stop" Gifts

You may want to consider who should benefit from your estate if your immediate family, i.e. your first choice of beneficiaries, die with you or before you. This is called a "long-stop" gift. So, for instance, if you and your spouse and children have died, you may want to include your parents / siblings / charities, etc.

8. Administrative Powers

Your Will(s) should include administrative powers, which extend the powers available to your Executors & Trustees, when they go about winding up your estate. They include powers which allow the Executors and Trustees to choose which type of investments to use if holding funds for minor beneficiaries, they can choose who they bank with, dispose of clothing and items of no value, etc.

9. Attestation Clause

At the end of the Will, there is an attestation clause where you, as the testator, will sign in the presence of two witnesses, who are witnessing your signature at the same time.

10. Other Considerations

You may be interested in receiving further information on the following from the Wills & Estate Planning Team:

Certainty – solicitors online Will Register

Living Together – practical advice for unmarried couples, or for adult children living with parents

Lasting Powers of Attorney

Any reference made to spouse includes civil partner.

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For details of who to contact for more information or to arrange a meeting:

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