

GUIDE TO WILLS

A Will is a legal document that states how you wish for your investments and possessions to be distributed, when you die. Unless you have a Will in place on your death, your estate (your assets and possessions) will be distributed in accordance with the Intestacy Rules. Not having a Will can cause distress to your loved ones and make it more difficult for your family to sort out your affairs, at a distressing time. Additionally, under the Intestacy Rules only married partners, civil partners and certain close relatives can inherit your estate – it does not include provision for stepchildren or foster children.

Having a Will prepared therefore provides the **peace of mind** that your estate should be distributed in accordance with your wishes.

What are the benefits to having a Will?

Responsibility for minor children – Wills are not just restricted to financial matters, but can also be used to document who you would like to have custody (Guardianship) of any minor children.

Avoid family disputes – sadly, distributing an estate can sometimes cause disputes within the family or with other beneficiaries. It is therefore important to have a coherent Will, professionally drafted, with consideration being had to the potential disagreements that drafting your Will in a particular way could cause.

Caring for your loved ones – every family is different and your Will can be drafted in a flexible way to ensure that all of your loved ones can benefit from your estate. This may be through the provision of a simple cash gift, a right for a loved one to reside in a property or a more complicated trust arrangement.

Choice – it is important to choose your Executors (those who distribute your estate for you) carefully to ensure that your estate is distributed in accordance with your wishes.

Minimising Inheritance Tax – Inheritance Tax should be considered when your Will is drafted, to ensure that it takes advantage of any tax saving strategies.

What to include in my Will?

Funeral Wishes – your Will can record your wishes as to whether you would prefer your body to be buried or cremated and also whether you have a funeral plan in place. It can also detail any wish for your body to be used for medical science.

Appointment of Executors – your Executors administer your estate and distribute it in accordance with the terms of your Will. It is therefore important to carefully choose your Executors. You can (in some circumstances) have one Executor or up to a maximum of four. They need to be over 18 and they can also inherit under the terms of your Will. You can also appoint replacement Executors, in case your nominated Executors cannot act.

Specific or pecuniary gifts – you can gift specific assets or set sums of money to individuals, organisations or charity (called Beneficiaries). This could be for example a gift of £1,000, a diamond engagement ring or even a whole property.

Residue – the residue of your estate covers all further assets in your estate that you have not already gifted and are not required to settle any debts or tax owed. If you do not make a gift of the residue of your estate in your Will, then the remainder of your estate will pass in accordance with the Intestacy Rules.

Substitutional beneficiaries – it is important to consider where you would like your estate to pass, if your nominated beneficiaries pass away before you.

Other important considerations

- If you marry, any previous Will is automatically revoked (unless the Will is specifically made in contemplation of marriage).
- On divorce, any gift (or appointment as Executor) to that ex-spouse in your Will shall fail, as if he/she had died before you. The remainder of the provisions in your Will shall remain valid. It is therefore recommended that a new Will is prepared at this time.
- Certain individuals may be entitled to make a claim against your estate on your death, if they do not feel they have been adequately provided for. This includes a former spouse, a child (or stepchild) or a partner you have been cohabiting with for more than two years.
- Some assets may not pass in accordance with your Will, such as jointly owned property, nominated life insurance policies or pension death benefits. It is important that these are also considered to ensure that all of your assets pass to your designated beneficiaries.