

why make a Will?



Making a Will means that you will decide what happens to your assets after you die, giving certainty and peace of mind to you and your family. By making a Will you are letting your family know that you have thought about their future.

Around two thirds of adults in the UK do not have a current Will. Many of them are probably unaware of the implications of dying unexpectedly without having made one, and their estate being subject to the 'intestacy' rules.

Anyone who has recently married or divorced and not made a new Will faces the same issue. Marriage invalidates a previous Will and divorce can change the way it works. If you die before a divorce has been completed you may inadvertently end up leaving assets to your spouse.

So, why do you need a Will?

This will depend on your circumstances, but some or all of the following may be relevant:

- To set up formal guardianship arrangements for children under 18. You may also consider setting up a Trust to ensure that any funds you leave to your children will be kept safe for them. If you do not make a Will, your children would automatically receive any sums due to them, to spend as they wish, at the age of 18.
- To make specific gifts of particular items of jewellery, works of art or other personal possessions to particular family members or close friends.
- To leave money to the people you choose; while most of your money may go to your spouse, your civil partner or your children, many people make smaller gifts to grandchildren or charities.
- To help protect your assets if your spouse needed to go into long-term care after your death; this can be achieved by establishing a Trust.
- To protect your partner. If you have a partner but are not married, they will not automatically be entitled to anything on your death unless you have provided for them in your Will.
- As an essential part of the divorce procedure. If the spouse your are divorcing is mentioned in your Will they could still benefit if you die before the divorce is completed. After the divorce has gone through you will want to reconsider the terms of the Will as divorce affects how it is interpreted.
- To save Inheritance Tax (IHT). Although changes to the rules concerning the IHT Nil Rate Band (NTB) in 2007 made it easier for some married couples to pass on their assets without paying tax, those with complex family circumstances or assets including their home totalling more than their combined NRBs (currently £650,000) should certainly take advice. There is a new Residence Nil Rate (RNRB) which comes in from April 2017 in stages. Unlike the ordinary NRB this RNRB has particular conditions which you have to fulfil in order to qualify. Since by April 2020 this represents a potential further tax free allowance of £350,000 for a couple, it is worth ensuring that you qualify if at all possible.

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- So you can choose your executors. These are the people who are responsible for sorting out your assets after your death and ensuring that they are divided up in line with your wishes. If you die without a Will, your executors will not necessarily end up being the people you would have chosen.
- So everyone can be clear about what your wishes are. Unfortunately where people die without a Will to clarify their intentions, family feuds are more common than you might expect. This is particularly the case where one or both spouses have had more than one marriage and there is extended family to consider.

Not convinced yet? Consider what would happen if you died unexpectedly without a Will.

What happens under the intestacy rules?

If you are married with children, your spouse receives £250,000 and half of the balance with the rest going to the children. This can be messy and expensive to sort out. If you own a high value property but few other assets, your spouse could end up having to sell the family home to give your children their inheritance unless he or she was prepared to sue the children for some of the assets.

If you are married without children, your spouse receives all your assets. However, if you are single but cohabiting and you die without a Will your partner will not automatically be entitled to anything. If you have children they will benefit, if you do not then your parents or siblings may inherit from you.

Further details on these and other permutations can be found at www.direct.gov.uk but the underlying message is simple – to retain control of your own assets, have the opportunity for tax planning, and minimise the potential stress for your loved ones, you should ensure that you have a valid Will at all times.

Do I need a solicitor to make a Will?

No, you can write a Will yourself. There are also other organisations offering Will writing services. However, many of these do not have legally trained staff. Many home-made Wills fail each year because they have not been prepared or completed correctly. The cost and stress of resolving these situations generally far outweighs the cost of doing it correctly in the first place. If you would like individual advice please call a member of our Lifetime Planning team.

www.ashtonslegal.co.uk