

Private Client and Wills & Probate

Why should you make a Will?



A Will ensures that your assets are inherited on your death by those who you wish to benefit.

What happens if you do not have a Will?

If you die without a Will, the rules of intestacy determine how your assets are distributed, which could mean, for instance, that your spouse does not inherit all of your estate.

If you are not married (or in a civil partnership), your partner would not inherit anything under the intestacy rules. In law, there is no such thing as a "common law husband or wife".

In our experience, it is unlikely that the rules will correspond with your wishes, and relying on them could lead to a family dispute and/or additional expense in dealing with your estate.

Without proper consideration and planning for the future, dying without a Will may mean that assets in your estate will have to be sold, either to provide for persons who you did not intend to benefit, or to fund Inheritance Tax.

What can you say in your Will?

- ✓ Who your executors will be
- ✓ Who should be guardians for your young children
- ✓ Your funeral wishes
- ✓ Provision for your partner, charities and friends

Your Will can deal with a number of matters including:

- ✓ The continuation of your business
- ✓ The creation of trusts for children or vulnerable persons
- ✓ Minimisation of Inheritance Tax
- ✓ Protection of your assets for future generations

You have remarried, but want to leave your estate to your children?

It is common these days for people to remarry and, if you are in this situation, the difficulty in making a Will can be striking a fair balance between providing for the needs of your spouse and protecting your wealth for your children.

For this reason, it is not always advisable for married couples to leave the whole estate to the survivor; the risks being that the survivor can make a new Will and exclude their step-children or even benefit a new partner. Our lawyers can advise you about the best way to structure your Will to avoid these risks.

What about your existing Will?

If your personal or financial circumstances have changed, your Will may be out of date. It is advisable for you to review your Will every 3 to 5 years, or whenever there is a significant change in your life, such as when you get married or get divorced.

What if you have made your own Will?

The risks in making your own Will are numerous: it may not be validly executed, it may not deal with all of your estate, your intentions may not be clear, and you may have missed something or someone out.

It is far better to have the certainty and peace of mind of a professionally prepared Will. Our lawyers can provide you with advice and guidance about all aspects of making your Will, including property ownership, Inheritance Tax, trusts, asset protection, business succession, and potential claims against your estate.

Disclaimer

This Fact Sheet has been prepared to provide you with basic information about Wills. It is not to be treated as a substitute for getting full and specific advice from a specialist lawyer. Please do not hesitate to contact us for further information.