

A simple guide to Wills.

What is a Will?

A Will determines how your assets are to be distributed in the event of your death. It is a formal document that must comply with strict legal requirements concerning the document itself and the way it is executed.

What type of Will do I need?

- **Straightforward Wills:** If you are over 18 years of age you can make a Will. You may simply wish to leave your estate to your family or friends. You can include specific gifts of possessions and gifts of money to different people if you wish.
- **Mirror Wills:** These are two identical Will documents. If you are married, in a civil partnership, or an unmarried couple and have similar wishes about what should be included in your Wills then mirror Wills may be the answer. On the first death everything commonly passes to your partner. Provisions are then put in place as to how the estate is to be distributed after both parties have passed away.
- **Will trusts:** Sometimes it may be beneficial to have a trust in your Will. This can be to protect property or other assets that you wish to pass on to your loved ones at some point after your death, but not directly on your death. This might be for example because they are minor children.
- Will trusts are a good way to provide for your surviving spouse or partner whilst ensuring that assets ultimately pass to other loved ones on the second death.
- Will trusts can also be useful when a group of beneficiaries may need to be provided for, such as adult children and grandchildren. If the amount of support they may need from the trust is likely to vary at different times and ages, your trustees can decide when and how to distribute the trust fund after your death. They can also be helpful for

inheritance tax planning. This type of trust is called a discretionary trust.

- Similar Will trusts can be created to manage funds for dependent children or adult beneficiaries with learning or physical difficulties. They can be created to ensure that state benefits are not lost.
- The trustees are nominated by you to manage the trust on behalf of the people who stand to benefit. They are called the beneficiaries. You can leave a letter of wishes telling the trustees how to manage the trust fund after your death.

Property Protection and Care fees.

- Do you own your property, jointly or as tenants in common? What is the difference and why is it important?
- If you own property jointly it will pass to the surviving partner on the first death. If they later require care, the whole value of the property can be considered for payment of care fees.
- If your spouse or partner remarries, your children, or children from a former relationship may not be provided for.
- Splitting the ownership of the property into two is known as a severance of the joint tenancy. You become 'tenants in common'. This allows you to dispose of your half of the property under your Will. You can fully provide for your spouse or partner whilst ensuring that your half of the property passes to your beneficiaries which is usually the children. If the survivor later needs care only their half of the value of the property can be considered for payment of care fees.
- This is the perfect solution if you have concerns about care fees, remarriage or providing for specific children. These trusts are called life interest Will trusts.
- We can advise on all Will trusts and severance of the joint tenancy. We can deal with any land registry requirements.

Preparing to make your will. What to include.

Who do you want to appoint as your executor(s) and trustee(s)? Choose someone you trust to act on your behalf to carry out the terms of your Will. An executor can also be a beneficiary but must not witness the Will.

Do you have minor children or vulnerable adult children? If so, who will be their guardian after your death?

What is the value of the estate? Does it exceed the inheritance tax exempt limit, (currently £325,000 for an individual or £650,000 if the estate is passed to a spouse or civil partner) if so, the excess is currently taxed at 40%.

Do you qualify for an extra £175,000 residence nil rate band per person because of the value of your home?

Are there assets, such as jewellery, cars, furniture, family heirlooms, or collections that you want to give to a specific person?

Who are the beneficiaries going to be? Consider spouse, partner, dependent parents, children, grandchildren, friends and charities. Consider also what might happen if your beneficiaries die before you.

Funeral wishes.

Do you want to include your funeral wishes? It can be difficult to discuss this with your family. Whilst instructions in a Will are usually followed, they are advisory not mandatory.

Keep your Will up to date.

You should review your Will regularly to ensure it reflects any changes in your circumstances such as:

- Getting married or entering a civil partnership (this automatically revokes your Will).
- Getting divorced (this does not automatically revoke your Will).
- Having children.
- Buying property or other high-value assets.

- Partnership and business assets may already be regulated by partnership or shareholder agreements and fall outside of the Will for distribution purposes. They will be in your estate for inheritance tax purposes but may qualify for inheritance tax relief.

Signing the Will.

Your Will is not valid unless it has been properly signed. We will ensure that is correctly done.

What if I suffer with mental incapacity?

You must make your Will whilst you have the mental capacity to understand the nature and effect of the document and the beneficiaries that you wish to provide for. To deal with loss of mental capacity you should have Lasting Powers of Attorney in place. We can prepare these for you.

Where to store my will?

Your Will needs to be easily found when it's needed. You can keep it safe at home or with your bank. Make sure that someone you trust, for example your executors or beneficiaries know where the Will can be found.

Nominate loved ones for your pension.

If your pension is managed by trustees, you might be able to nominate it to beneficiaries outside of your estate. It can save on inheritance tax.

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