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Guide to making a will

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Making a Will is not something that we all do regularly as part of our daily lives. More and more people are now making a Will as they realise that the wealth that they have built up needs to be managed properly and effectively through a Will. Most people accept this – but simply do not get around to doing anything about it. This guide will provide you with all the information that you need to be able to make the decision about why you should make a Will and how and where you should make it.

How do I benefit from making a Will?

You won't, although probate records do suggest that people who make a Will outlive those who don't by 9 months on average. Nobody ever benefits themselves from making a Will unless you count peace of mind. But the reality is that your loved ones will find that dealing with your affairs will be a lot easier, quicker and probably cheaper when a Will has been written.

Making a Will is not about you.

Do you own your property? If so, the value of your property means that your estate will be a lot easier to administer if you make a Will.

Do you have young children?

Many people assume that making a Will is for old people. But it is often more important for young families to make a Will. By making a Will you will be able to create a bespoke trust that will provide for your family's financial security. You will also be able to appoint Guardians, people who will look after your children.

Do you have a complicated family structure?

Unmarried partners, second marriages, step children, family disputes and so on often lead to competing interests, none of which are recognised by the law. By making a Will, you will be able to address the competing and different needs of everyone in your family unit.

Are you concerned that your children might be disinherited if you need long term care and your wealth is used to pay for such care? Are you concerned that if your spouse or partner remarries and leaves what you have left to them to their new

partner, thus disinheriting your children? If so, by making a Will including trusts, you can ensure that what you have worked for goes to whoever you choose, while ensuring the financial security of yourself and your loved ones.

And if I don't make a Will?

Then you won't have made the decisions that will protect and cater for your loved ones' future financial security.

What is involved in making a Will?

There are up to 3 stages in making a Will:

- 1) Taking information and getting advice on how best to structure the Will. This is key to the whole process, if this is not done at all, or not done fully and accurately, the remaining stages will be pointless.
- 2) Drafting your Will.
- 3) Signing the Will – another key process because if this is not done correctly (or not done at all), then your Will won't be valid.

There are two other aspects to consider at the Will making stage, which will have an impact on the overall process:

- 1) Where you keep your Will once it is made
- 2) Who administers your estate when something happens to you

How to go about making a Will?

Do it yourself.

There are a number of 'packs' available from stationers, or you can write out your Will on a piece of paper. Whether the Will is 'legal' will depend on what you write down. You won't get any advice on content so you will end up with the Will that you think best suits your circumstances, which might not be the Will which actually does best suit your circumstances.

Make sure that you have the necessary legal knowledge to draft the Will before starting. Remember, if what you write down doesn't make sense legally, you can't come back and correct it and there is no one for your beneficiaries to sue if you haven't got it right!

On line provider

A website will collect your information, (this is called your 'instructions') from which a Will is then drafted. The quality and effectiveness of the Will that you get will depend on the information that the website chooses to collect from you. You won't get any advice so you will end up with the Will that you think best suits your circumstances, which might not be the Will which actually does best suit your circumstances.

Bank

A bank official will usually take your instructions and then forward the details on to a processing centre. You are unlikely to get any bespoke advice on how best to structure your Will unless whoever is collecting your information is trained and qualified in Wills, so you may end up with the Will that you think best suits your circumstances, which might not be the Will which actually does best suit your circumstances.

Solicitor

They will take your instructions, give you any advice that you need and then draft your bespoke document based upon your circumstances, wishes, hopes and concerns. Make sure that the person you deal with at the firm is trained and qualified in Wills – not all solicitors are - and not everyone who works at a firm of solicitors is a solicitor. Ask to see their qualifications.

Professional Willwriter

They will take your instructions, give you any advice that you need and then draft your bespoke document based upon your circumstances, wishes, hopes and concerns. Most will make home visits and visit outside normal working hours.

Make sure that whoever you deal with at the firm is trained and qualified in Wills – not everyone who works at a firm of Willwriters is a qualified Willwriter. Ask to see their qualifications. Make sure that the Willwriter has professional indemnity insurance, is a member of a professional body and subscribes to a Code of Practice which includes a complaints procedure which is independent from the Willwriter and independent from the professional body – just in case things don't go to plan.

The cost of making a will

With so many different ways to draw up your Will, the price that can be paid for a Will can vary between a few pounds and several hundred pounds. The cheapest is not always the best. It's important to find out what you are getting for your money so that you can compare different services and choose the service which is right for you at the right cost.

One factor which influences how much you pay is the content of the Will and how complex it needs to be to deal with your circumstances and needs.

The qualifications of the people doing the work for you will also be a factor. Someone who is qualified in Wills, and has to invest time completing ongoing refresher training will need to charge more than someone who has done little or no initial training and does not keep up to date with refresher training.

Another factor will be what service you get. Do you get advice when giving your instructions? Is anyone available to explain the document once it has been produced? Do you get someone to supervise the signing and witnessing of your Will to ensure that it is signed and that it is signed and witnessed correctly?

Another factor which influences price is who will be the executor of your Will – the person who deals with your affairs when something happens to you. The executor of your Will is in the driving seat and a professional may charge thousands for their services. Sometimes the price of a Will is subsidised (sometimes to a point when it is free) in order to secure such appointments.

If a professional is seeking appointment as your executor, make sure that you understand their fee structure before agreeing. If you are asked to pay at the time of making your Will for a service to deal with your estate when something happens to you, find out what happens if the firm fails during your lifetime.

Some charities and charity groups run promotions at different times of the year when they subsidise in part or in full, the cost of making a Will with a professional. The charity obviously hopes that you will return the favour by including a bequest to them in the Will – but this is not a condition of the offer. Make sure that you are happy with the terms under which a professional who drafts your Will under such schemes is appointed as an executor in your Will!

When to pay for your Will

You may be asked to pay some or all of the cost of your Will before it is completed, either when instructions have been taken or when a draft has been produced. If so, find out if there is any mechanism in place in case the business fails before you get your Will that you have paid for.

You may be asked to pay for your Will in stages, which reduces your risk, but again, find out if there is any arrangement in place to protect what you have already paid if the business fails before the Will is completed. Or you may be asked to pay for your Will when it has been completed to your satisfaction.

Where should you keep your will

The original, signed Will is the only legal binding version of the Will. Copies are not usually valid, so you need to keep your original Will safe. You should not keep it at home. If it is lost, stolen, damaged (eg in a house fire), then you haven't made a Will. If you have difficult family circumstances, bear in mind that if whoever gets to the Will first finds they could benefit if the Will did not exist, you may end up not leaving a Will.

Comparing the number of people who make a Will to the number of people whose estate is administered by a Will, up to half of the Wills made are not used to administer someone's estate. There is no point in putting a Will under floorboards, in a secret drawer and so on, if nobody can find it when they need to.

You should tell everyone that you have made a Will and where it is being kept and how to get access to it. Think carefully before telling anyone what is in your Will. Some banks and solicitors and professional Willwriters may keep your original Will at no immediate cost to you – especially if they (or a professional that they recommend) are named as an executor in your Will.

Banks, solicitors, and professional Willwriters may charge an annual fee to keep your original Will, especially if they (or a professional that they recommend) are not named as an executor. Sometimes the fee includes the option to have your Will updated free of charge. Some firms may offer to keep your Will for you for 'your lifetime' for a one off fee, but find out what happens if the firm ceases to trade during your lifetime.

The Probate Registry in London can store your Will for you.

Glossary of terms used in Wills

A Will uses a number of different legal terms – this is what they mean:

Administrator – Someone who deals with an estate if no Will has been made.

Beneficiary – Someone who benefits from a Will.

Codicil – A subsequent addition to the Will.

Devise – A gift of land or property

Discretionary Trust – A trust which appoints a number of beneficiaries and enables another group of people (called trustees) to have discretion over when and if any of the trust is paid to any of the beneficiaries

Executor – One or more people who carry out the instructions in the Will

Gift – A specific gift of an item or collection of items

Guardian – Someone who looks after children until they become eighteen

Intestacy – The rules which dictate who inherits if someone does not leave a Will

Legacy – A specific gift of a sum of money

Life Interest Trust – A trust which enables a person to benefit from trust assets during their lifetime without actually owning them, which are then passed on to other beneficiaries when that person dies, or some other stipulated event occurs.

Probate – the procedure under which an administrator (if there is no Will) or executor(s) (if there is a Will) are confirmed.

Residue – The estate which is left after debts, taxes, gifts and legacies have been made.

Testator – The person who is making the Will. The female is testatrix.

Trust – A mechanism where assets are appointed to be used in a defined way.

Trustee – One or more people who manage a trust.

Useful contacts

HMRC - Inheritance Tax

www.hmrc.gov.uk

0845 302 0900

Cruse Bereavement Care

www.crusebereavementcare.org.uk

0844 477 9400

Institute of Professional Willwriters

www.ipw.org.uk

0345 257 2570

Institute of Scottish Professional Willwriters

www.ispw.org.uk

0345 257 2670

Probate Service

www.hmcourts-service.gov.uk

0845 3020 900

Remember a Charity

www.rememberacharity.org.uk

020 7840 1030

Society of Trust and Estate Practitioners

www.step.org

020 7340 0500

Solicitors for the Elderly

www.solicitorsfortheelderly.com

0870 067 0282

The Law Society

www.lawsociety.org.uk

020 7242 1222

The Law Society of Scotland

www.lawscot.org.uk

0131 226 7411

The Law Society of Northern Ireland

www.lawsco-ni.org

028 9023 1614

Live every day as if it is your last - because one day it will be.
So make your Will – and make your Will today.



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