



Premier Solicitors

Frequently Asked Questions

Here are a few of the questions we are often asked about Wills, together with answers, to help guide you through the process of having your Will drawn up.

What is a Basic Will?

A basic Will is required for the majority of our clients who have a straightforward family situation, i.e. you wish to leave your estate to your spouse/Civil Partner (usually on first death, if a couple) or to your children equally (usually on second death, if a couple). If your requirements are more complex or bespoke than the basic Will service then we can provide you with a quote, once we have received your completed Will Questionnaire, before commencing any work. If you require a tax planning/trusts meeting then there is a box to tick on the Will Questionnaire if you require this, and we will give you a call to arrange a mutually convenient appointment.

Why should I make a Will?

By making a Will you can decide what happens to your property and possessions after your death. Making a Will is the best way to make sure your estate is passed on to family and friends exactly as you wish. If you die without a Will, your assets will be distributed according to the law rather than your wishes.

What is an Executor?

The Executor of a Will is the person who is designated with the task of dealing with your estate in accordance with the terms of your Will, after your death.

Who can be my Executors?

You are able to choose anyone you want to act as an Executor for you, provided they are 18 or over. The obvious choices are close relatives or trusted friends; however it is recommended that an independent professional Executor is also appointed to ensure that your affairs are dealt with properly and according to your wishes.

What does an Executor do?

After your death your Executors have a number of responsibilities/duties, including:

- identifying and valuing your assets and outstanding liabilities
- completing your final tax returns
- obtaining the 'Grant of Probate' and paying inheritance tax within certain time limits, if necessary
- arranging the sale of property and its contents
- distributing your estate to your beneficiaries according to the terms of your Will (including setting up trusts for beneficiaries who are under 18)

Some of these tasks may be complicated and you may need the help of a Solicitor to ensure that the administration of your estate is dealt with efficiently and in accordance with the law.

Who can be Witnesses to my Will?

It is recommended that the Wills are signed at our offices to avoid any problems and we are able to provide two witnesses for you at no cost. Alternatively, you can arrange for two independent adult witnesses to witness you sign your Will. The witnesses must not benefit from your Will or be closely related to anyone who benefits from your Will.

Do I need to appoint Guardians in my Will?

If you have young children then you should think about appointing a guardian. A guardian is an individual (or individuals, i.e. married couple) who is given the responsibility of looking after your children in the event of your death.

Do I need to calculate my Assets and Liabilities?

No, your assets will be accounted for after your death (and after all the liabilities have been paid). Your estate is everything you own at the date of your death, and you do not need to itemise all of your assets for the purposes of your Will. This will be the responsibility of your Executor following your death, and so long as your papers are in order at home this should present no difficulties.

What are Personal Chattels?

Tangible moveable property is known as personal chattels, which are not otherwise specifically gifted in your Will. An example of personal chattels is any furniture, cars, jewellery and anything else which is used for personal use. We would recommend that you prepare a list of your personal chattels, so that we can refer to this list in your Will rather than specify the details in your Will. That way, you can update the list at any time without any formality, which you can either store with your Will or leave with your personal papers.

What are Mirror Wills?

Mirror Wills are Wills prepared for a couple, leaving everything to each other on first death and to children on second death, or, where there are no children, to a named beneficiary. Mirror Wills are individual Wills, which are separate legal documents, having similar contents that "mirror" each other.

What does Residue mean?

The residue of your estate is what is left after all debts, funeral expenses, legacies and tax has been paid. If you intend to leave the residue of your estate to your spouse or your partner you can also say what is to happen to the residue if your spouse or partner die before you, for example if the residue of your estate is to pass to your children. If you are making a number of cash legacies or gifts, you need to be satisfied that your estate will be sufficient to cover these. If your circumstances change then you should review your Will and make a new one if necessary.

Does marriage affect a Will?

If you marry (or remarry) then any existing Will is automatically revoked, unless you specifically stated in the Will that you intended to marry and wanted your Will to remain valid after your marriage.

Does divorce affect a Will?

If you are in the process of divorce or separation (or considering this) then you should seek advice about making a Will straight away, or update your existing Will. A Decree Absolute in divorce proceedings does not cancel a Will, however, if you had already made a Will leaving a gift to your former spouse, or appointed your former spouse as Executor, then the gift to them or appointment of them would not take effect. The Will would remain in force but operate as if your former spouse had died before you (unless you specifically stated otherwise in the Will). Until your divorce is final, all the terms of the Will remain valid, meaning that the spouse you are divorcing could still benefit.

How often can I change my Will?

As often as you need to. Just give us a call and we will send you a new Will Questionnaire, or you can confirm any simple changes to us in a short letter and we will prepare a new Will for you. Our low fixed fee charging structure would usually apply.

What is a Codicil?

A Codicil is when you add/amend something minor in your existing (signed and witnessed) Will. A Codicil must also be signed and properly witnessed. For any major changes a new Will should be made to avoid confusion and problems after your death.

When is Inheritance Tax payable?

Inheritance Tax is a tax potentially payable on an estate when somebody dies. Not everyone pays Inheritance Tax as it is only due if your entire estate - including any assets held in trust and gifts made within seven years of death is valued over the current Inheritance Tax threshold (£325,000 in 2012-13). Inheritance Tax is only payable on the amount that exceeds £325,000 in 2010-2011 (or on the amount that exceeds £650,000 in 2010-2011 if you are the second to die of a couple that is married or in a Civil Partnership and you were the sole beneficiary of your spouse's/Civil Partner's estate).

Why have I been asked to provide a GP/specialist letter?

You may be asked to provide a letter from your GP/specialist to state that you have understood the effect of making a Will and understood the extent of the property of which you are disposing and that this disposal of property has been made while you are of sound mind. To minimise any challenge or argument that you did not have the requisite mental capacity, which may prevent costly problems arising in the future, and in order to comply with our professional obligations, we may require this before we undertake any work for you; this usually only applies to the very elderly, or where we receive instructions from another family member. Your GP/specialist may charge for this letter, and you will be responsible to settle this directly with your GP/specialist. In some circumstances a simple GP letter may not suffice, and so you may need to obtain a report from a specialist.

Can I make my own Will?

You are able to make your own Will but this has to be done very carefully and must be properly signed and witnessed, otherwise it will not be valid. If your Will is not correctly worded your assets may not pass as you intended. It could even cause dispute or claims against your estate. If your Will is badly written then this can cause more problems than not having one at all. This also applies to Wills written by non-Solicitor Will Writing or Internet based companies, and so we would recommend that you have your Will reviewed or rewritten by a Solicitor who is a specialist in this area.

Where can I store my Will?

There is no formal requirement as to where a Will should be stored but obviously it should be kept in a safe place, such as our offices fire-proof safe storage cabinets, at home or with your bank. You should always make a copy of your Will (which should clearly be marked "copy") and make a note on the copy where the original is kept. Finally, make sure you tell your Executors where you have stored your Will so they are able to access it when needed. We can attend to all of these formalities for you. We store Wills and Deeds free of charge for our clients. If you are currently paying for storage of your Will, then please feel free to switch to us for free storage.

Funeral Wishes

It is possible to specify brief funeral wishes in your Will, but we would recommend that this is something you discuss and agree with your next of kin as it is they who need to know what you would like, as they need to deal with the arrangements when the time comes. If you have a definite, extensive idea about what you would like it is possible to have a pre-paid funeral plan. This sounds macabre to many people, but it can offer the peace of mind to both you and your loved ones after your death. If this is of interest please let us know and we can put you in touch with one of our network of friendly funeral director contacts.