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Why make a will?

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FROM



Sesame Bankhall Group

# WHY MAKE A WILL?

70% of the UK population have not made a will. When people die without making a will, it can cause real problems for loved ones because the deceased's true wishes are never known and unnecessary delays can occur.

If you die without a will, you are deemed to have died 'intestate' and the law – rather than you – decides who inherits your estate.

If you are intestate your estate will be split depending on its value to family members including your partner (if married), children, parents and siblings. If unmarried and intestate your grandparents can also benefit. If there are no relatives found the property passes to the Crown. You may not want that.

**Making a will is the only way to ensure that your wishes are carried out after your death. If you make a will, you can:**

- Decide how much money is left to each of your family members
- Specify who will become the guardians of your children
- Pass your estate to an unmarried partner
- Choose who you want to be the executor of your will
- Leave something to charity
- Give a memento, like a piece of jewellery, to a treasured friend
- If in a new relationship, you can ensure that your children from previous relationships get legacies, avoiding so-called "sideways disinheritance".

A Will is important if:

## 1. You are married or in a registered civil partnership

Many married people believe that on their death, all their assets will automatically pass to their spouse. In fact, depending on the size of the estate, if there are children the spouse may only inherit personal items and the first £250,000. The rest of the estate may not pass to their spouse, children or other relatives as you might expect.

## 2. You live with a partner

An unmarried partner or non-civil partner has no automatic right of inheritance at all. A will is the only way to make sure your partner is left what you want them to receive.

## 3. You have children

A will allows you to appoint guardians of your children otherwise the Courts decide. They may go into care whilst the decision is made.

## 4. You are single

If you don't have a will, your family or dependents may need to challenge the intestacy rules, which may cost them a considerable amount of money in solicitor's fees to obtain the possessions you want them to inherit.

## How do I make a will?

There are a range of different wills and other legal arrangements, from a single will for a single person leaving their estate to a family member, to more intricate wills designed to protect assets or minimise tax liabilities.

The following wills can be arranged quickly and easily, with the minimum of fuss.

### Single Will

Suitable for single people, this allows you to ensure that the right people receive the things you want to leave them. It has no Inheritance Tax benefits, unless you plan to leave your estate to charity.

### Mirror Will

Suitable for couples who wish to leave all their assets to each other. Two separate but similar legal documents are prepared. Usually they state that should one partner die the other inherits everything and in the event of them both dying at the same time other beneficiaries receive their property.

### Discretionary Will Trusts

Whilst discretionary will trusts may no longer be required for Inheritance Tax savings, there are still many other advantages to having wills drawn up this way, which are:

- Unmarried or cohabiting couples can transfer assets up to the value of the nil rate band into trust on first death, thereby reducing the Inheritance Tax liability for the surviving party's estate.
- By not passing all your assets to your spouse on your death, you can potentially reduce the amount of future care costs that may be payable should your surviving spouse need to go into care.

- A trust can provide a layer of protection for your children following your death, ensuring that they benefit from your assets in the event of the surviving spouse re-marrying.
- Trustees choose who can benefit from the assets placed into a discretionary trust. Therefore if you want to ensure that your children cannot access these assets until they are old enough, a trust is a great way to maintain control.
- If as a married couple both of you die and your children's estates are over the nil rate band at the time, the existence of a trust provides your children with an opportunity to pass on the benefits to their children (i.e. your grandchildren). This reduces your children's Inheritance Tax liability on their estates and would be more difficult to do should your wills not be prepared to include trusts in the first instance.
- If the assets placed in the trust upon first death increase in value more quickly than the rate at which the Inheritance Tax threshold increases, then potentially more of an Inheritance Tax saving can be made by having the trust set up on the first death.

There are no guarantees that the Inheritance Tax situation will not change again.

If you include discretionary trusts in your will, upon your death, the trustees can decide whether it is beneficial to create the trust or not. Should they not be included within your will, it will be difficult for your beneficiaries to create a trust at this stage. Once you have established that a discretionary trust is appropriate, there are no disadvantages in making your will. If it is clear that the trusts are no longer required to save Inheritance Tax, following the death of the first spouse then the Trustees have the power to terminate the trust by exercising their discretion to give the nil rate band assets to the surviving spouse. You therefore need to choose Trustees who have the technical knowledge and ability to do this.

## Things to consider:

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### Your Estate

You need to consider the current value of your assets and your spouse/partner/ civil partner's assets, such as:

- Main place of residence and any other property or land
- Business and foreign assets
- Building Society and bank accounts
- Investments (eg ISAs/PEPs, Investment Bonds, Unit Trusts), life assurance and insurance policies.

### Who'll be your executor?

Executors are the people you choose to carry out your wishes after you die. It is important you choose people you can trust – who are able to deal with the responsibilities of administering an estate.

Some of their duties include:

- Obtaining details of all assets and debts
- Preparing Probate papers
- Calculating and paying Inheritance Tax to HM Revenue and Customs
- Paying all debts
- Arranging house sales and disposal of contents
- Distributing the assets in line with the terms of the will

### Need support?

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An SBLS lawyer can either be one of your executors, or your sole executor. Not only do they have the technical knowledge and a professional unbiased approach, but they will also be able to relieve those you love of this great responsibility.

### Storing your Will

It's important that your will is kept somewhere safe. People need to know where your latest will is. Sadly mislaid wills and no evidence of a will can result in intestacy. If the will is stored by SBLS's lawyers, it will be safe and can be found. You will, of course, receive a copy for your reference, but you will have the comfort of knowing that the original is safe and secure.

You can access your will free of charge at any time should you wish to make amendments through our Will Writing Service. However, if your will is to be amended or stored by another firm or solicitor, a retrieval fee is payable (see Tariff of Charges).

Contact us today and we will provide you with an experienced financial adviser who can offer you advice on this and other matters to ensure your family are financially secure in the event of your death.

**Talk to your Financial Adviser today! They can offer you advice on this and other matters to ensure your family are financially secure in the event of your death.**

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# WILLS – YOUR QUESTIONS ANSWERED

## What is a Will?

A Will is a legal document, which sets out what is to happen to a person's estate on their death. It is a legal declaration providing for the transfer of property Your estate is the total value of all you own.

## Who can make a Will?

Anyone over the age of 18 years of sound mind.

## When does my Will become legal?

We will send you the final version for signature. The Will must be signed, dated and witnessed correctly to be legally valid. We will provide you with Will Signing Instructions to ensure it is signed correctly.

## Who can be my witnesses?

Anyone over the age of 18 who is not mentioned in the Will or related by blood or marriage to anyone named in the Will.

## What is a Guardian?

A person who you nominate, usually in will to look after your children under the age of 18.

## Do I need to appoint Guardians?

If you have children under the age of 18, it is advisable to appoint a Guardian. Your Will is the only place you can nominate a guardian so it is important to do so.

## What is an Executor?

An Executor is the person(s) you name to carry out your wishes when you die.

## Who can be my Executors?

Your Executor can be anyone over the age of 18 years. You can appoint a family member or a close friend. It is always best to appoint someone that you can trust and who you feel is up to the job. It is a good idea to speak to the person first to make sure that they are prepared to do it. You need a minimum of 1 person and a maximum of 4.

## Can an Executor be a beneficiary of my Will?

Yes. But they must not witness your Will.

## Can I leave gifts to people without a will?

No. Without a will you cannot leave a gift to charity or friends.

## What if your property is held as tenants in common?

See our separate property factsheets. If you're Joint Tenant the property passes in its entirety to your co-owner(s) on death. If you are Tenants in Common, your share of the property passes as if separate property to your family.

## What is a "residue"?

Your Residue or Residuary Estate is the money left over once all debts, funeral expenses and tax have been paid.

## How can I amend my Will?

You can change your Will at any time.

## Can I revoke or cancel my Will?

A Will is cancelled or revoked by any of the following:-

- If it is deliberately destroyed by you.
- A subsequent Will is prepared.
- Marriage as a general rule revokes a Will.

If there has been a divorce, the Law treats a former spouse as having died before you and any gifts to the former spouse will fail.

## Do you need a lasting power of attorney?

They are a good idea in case anything happens to you and you cannot make decisions for yourself.

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