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Please note that this is a general guide and not to be relied upon when taking any personal or business decisions and that it is not a substitute for legal advice tailored to the reader's circumstances.

Estate Planning and Wills

It is easy to put off making a Will. However, you should never underestimate the importance of making a Will. This apparently insignificant document can have enormous bearing on your family after you are not here to look after them. If you die without a Will your assets may be distributed according to the law rather than your wishes. This may mean that your partner receives less, or that your assets may go to family members who may not need it. Making a Will also relieves the mental stress for the bereaved at a time of emotional upset as well as keeping your affairs in order and ensuring that your wishes are adhered to.

There are many good reasons for making a will:-

- You can decide how your assets are shared out and ensure those family members that need taking care of are looked after
- If you are not married or are not in a civil partnership your partner will not inherit automatically – by making a Will you can ensure that your partner is provided for
- You can minimise any tax liabilities that your estate may incur
- If you have children, you will need to make a Will so that arrangements for the children can be made if either one or both parents die
- You can appoint your own executor who you know and trust to deal with your affairs after your death

What happens if you don't have a Will?

If you do not have a Will you will die Intestate (this is a technical term used in Law for someone who dies without a Will). There are rules for deciding who inherits your assets depending on your financial circumstances. The following provisions apply only in England and Wales, the law differs in Scotland and Northern Ireland.

If you are married or in a civil partnership and your estate is worth £250,000.00 or less

Everything goes to your husband, wife or civil partner.

If you are married or in a civil partnership and your estate is worth over £250,000.00

Your husband, wife or civil partner will not automatically receive everything, although they will receive

- Personal items, such as household items and cars but nothing used for business purposes
- £250,000 free of tax or £450,000 free of tax if there are no children

- A life interest in half of the rest of the estate (on his or her death this will pass to the children or as detailed below)

The remainder of the estate will be shared as follows:-

- Children (or if none, grandchildren) will each receive an equal share
- If there are no children or grandchildren, surviving parents will receive equal shares
- If there are no children, grandchildren or surviving parents, any brothers and sisters (who shared the same two parents as the deceased) will receive equal shares (or their children if they died while the deceased was still alive)
- If the deceased has none of the above the husband, wife or registered civil partner will receive the whole estate

If you are partners but are not married or in a civil partnership

If you not married or registered civil partners your partner will not automatically get a share your estate if you die without making a Will.

If your partner hasn't been provided for in some other way their only option is to make a claim under the Inheritance (Provision for Family and Dependents) Act 1975. However, this is a complex area which can be costly to pursue.

If there is no surviving spouse/civil partner

The estate is distributed as follows:

- To surviving children in equal shares (or to their children if they died while the deceased was still alive)
- If there are no children, to parents (equally, if both are alive)
- If there are no surviving parents, to brothers and sisters (who share the same two parents as the deceased) or to their children if they died while the deceased was still alive
- If there are no brother and sisters then to half brothers or sisters (or to their children if they died while the deceased was still alive)
- If none of the above then to grandparents (equally if more than one)
- If there are no grandparents then to aunts and uncles (or to their children if they died while the deceased was still alive)
- If there are none of the above, then to half uncles and aunts (or their children if they died while the deceased was still alive)
- To the crown if there are none of the above

It will take longer to sort out your affairs if you don't have a Will. This could mean extra distress for your relatives and dependents until they can draw money from your estate.

What you should consider

Each individual's circumstances are unique and a member of our Probate and Wills department will discuss your needs in detail with you. However, it will assist us if you were to give some thought to the following:-

- You will need someone to be your executor. This person, usually with the solicitor's help, gathers in assets, pays off debts and distributes the estate in accordance with the Will. This is an important and often stressful role and careful thought should be given before deciding whom you wish to appoint. We will require their full name and address and we would advise that you discuss this with the people that you propose to appoint prior to doing so. We would highly recommend that you appoint at least two

executors (maximum of four). All executors should be over the age of 18 at the time of making the Will. You may, if you wish, appoint Norton Peskett to be your executors.

- You will need someone to be guardian of any infant children. We will need their full names and addresses. As this is a significant undertaking we would advise that you discuss this with the people that you propose to nominate prior to completing your Will. We would also advise that you discuss this with close family members (such as grandparents) to ensure that they are aware of the arrangements you have made for your children in the event of your death.
- You may wish to specify funeral directions in your Will. Although these are not legally binding they are often useful guidance for the Executors who are ultimately responsible for arranging your funeral.
- You may wish to consider giving a specific sum of money to someone prior to distributing your estate (i.e. a friend or relative or to charity) If you wish to do this please provide us with full names and addresses.
- If you own a business you may wish to consider what you would like to happen to your business assets or the shares in your company?
- Do you want to give a child or other relative a right to remain living in your property?
- You should also consider what you are worth as it is probably more than you think. Take time to do this as some tax planning possibilities may arise. The things you should consider are the following:-
 - Your house (please remember that a mortgage may be paid off by a life policy upon death)
 - Your Bank or Building Society Accounts
 - Your insurance policies
 - Your shares or other investments
 - Your business interests (perhaps as a shareholder or partner in a company or firm)
 - Any inheritance that you may receive
- Details of any property that you own with anyone else or any property that you own abroad
- Do you wish to give specific items to friends or relatives (i.e. jewellery, antiques, pictures etc)? If these items are not specifically given to someone named they will go to the residuary beneficiaries
- The full names and addresses of the people to whom you wish to leave your residuary estate. The residuary estate is what is left after all debts and any other monetary gifts have been paid

What we will do

You can see that dying intestate can lead to very complex problems which can easily be avoided by making a Will.

We take pride in providing an efficient, helpful and cost effective will making service. We are able to advise you on the contents of your Will and to prepare a draft for your approval. We can come to your home if this is more convenient for you or you can give us instruction by telephone, letter or email. For further information please contact a member of our Probate and Wills Department.

Reviewing an existing Will

Reviewing your Will every few years is as important as making one in the first place. You may wish to change how your assets are to be distributed, or your family circumstances may have changed.

Your Will may also require amendments to reflect changes in the law or taxation.

SINCE IT HAS BEEN NECESSARY TO SIMPLIFY GREATLY MANY OF THE POINTS ON THIS PAGE, THIS SHOULD NOT BE REGARDED AS A COMPLETE STATEMENT OF THE LAW. A MEMBER OF OUR PRIVATE CLIENT DEPARTMENT WILL BE PLEASED TO CLARIFY ANY OF THE POINTS REFERRED TO ON THIS PAGE AND PROVIDE YOU WITH ANY FURTHER ADVICE THAT YOU REQUIRE.

Frequently asked questions

Can I appoint my spouse/civil partner to be Executor?

Yes. Often married couples leave everything to each other and appoint each other to be executors of their respective Wills.

You will need to consider alternative executors (we advise at least two) to act on the second death (i.e. when you are both gone).

How long will it take to prepare my Will?

We can prepare a draft Will for your approval within a few days of receiving full instructions from you.

Do I have to come into the office to give instructions?

No, although a face to face meeting is usually better. You can give telephone or written instructions or email us. We can, if it is more convenient for you, visit you in your own home. We will need to see you at some stage to confirm your identity.

What happens next?

We will prepare a draft of your Will in accordance with your instructions and send this to you for your approval. If you have any questions we can happily deal with these – if necessary we can meet with you again to clarify any points. We will then need to see you in the office or at your home to obtain your signature to your Will.

Where should I keep the original Will?

If you keep your Will at home you may lose it, accidentally throw it away or it could be destroyed in a fire so we like to keep original Wills for our clients and supply them with a photocopy. We make no charge for this service.