

A GUIDE TO WILLS

Everybody should have a will: you need high quality advice if the job is to be done properly. Birkett Long has a strong team of experienced and qualified professionals who can help. We can also advise on related areas of law, like inheritance tax planning, trusts and the risk of claims against your estate.

This fact sheet is a brief introduction to the subject.

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to Wills**



Why Should You Make a Will?

There are many reasons for making a will, not least the peace of mind from knowing that your affairs are in order and your wishes will be followed. By making a will, you can make things easier for your family and friends at a difficult time for them.

What Happens if You Don't Make a Will?

There will be no executors appointed to administer your estate. That means that no one has any immediate authority to take decisions (for instance, to sell an asset which is rapidly falling in value). Secondly, the assets are shared out according to statutory rules, which means that they may not go to the persons you would wish to benefit. For example, your spouse or partner would not automatically inherit everything, as many people believe.

If you are married and have children, your spouse is entitled to the first £250,000 but the remainder of the estate is split, with part being held in trust. Even if you have no children, a spouse may still only be entitled to part of your estate. This means that your spouse could be forced to sell the family home because other relatives are entitled to a share of its value. Unmarried partners have no right at all to a share in your estate under the statutory rules. After your relatives have obtained a Grant allowing them to distribute it to your family, however, co-habiting partners and ex-spouses, among others, can make a claim against the estate, holding up the distribution.

If you have no living relatives, your estate passes to the Crown or, depending where you live, to the Duchy of Lancaster or the Duke of Cornwall.

And if You Do Make a Will...

The advantages of a will can be summarised as follows:

- You can provide for the family. It is particularly important for single people and unmarried couples to make wills, otherwise partners will not automatically be covered.

- You can provide for children. In particular, you can appoint guardians to act if both parents should die while your children are still under 18.
- You can make sure that your items of sentimental value go to the particular people you intend should have them.
- Your heirs can avoid a complex, lengthy and expensive administration.
- You can ensure an orderly handover if you own a business or a farm.

Inheritance Tax

When you die, your whole estate is potentially subject to inheritance tax (don't forget that employment death benefits or insurance policies to pay off your mortgage, for instance, may form part of your estate even though you do not enjoy the money during your lifetime). Any taxable amount above the tax-free allowance or "nil rate band" is taxed at 40% unless it passes to an exempt beneficiary such as a spouse, civil partner or charity.

It is therefore important that you have a will in place, whether you are married or not, and to plan what happens after your death to avoid your heirs having to pay more tax than is necessary. We can advise you on steps you can take during your lifetime so that your estate benefits as much as possible from the exemptions available and so that the taxable amount is no larger than it needs to be.

What Key Points Should be Considered When Making a Will?

- Executors - You will need to decide who will act as your executors. Your executors will administer your estate and carry out your instructions after your death.
- Funeral Wishes - You may (but need not) express your wishes about a funeral, burial or cremation: some of our clients request an environmentally friendly "green burial", for instance, or wish to donate their body for medical research.

- Guardians - If you have children who are under 18 you should consider who you would want to act as guardians and make sure that they agree to be appointed under the will. Gifts/Personal Chattels - Are there specific things you want to go to specific people? Or do you wish to make cash gifts in your will to relatives, charities, friends and neighbours or for the upkeep of your pets?
- You should consider the amounts you want to give, remembering the effects of inflation and the fact that these amounts are fixed, whereas the value of your estate as a whole will change over time.
- The Rest of Your Estate - Who is to receive the rest of your estate and what happens if that person dies before you?

How Much Does it Cost?

Not as much as you may think, given that thousands, or more likely ten or hundreds of thousands, of pounds are at stake. We are happy to quote a fixed fee for straightforward wills: please telephone us for our current rates. Our fees are inclusive and we do not make separate charges for arranging the signing or storing your documents. If your affairs are more complicated, we are happy to indicate over the phone, or after a preliminary fixed-fee meeting, what work we think will be needed and what the total costs are likely to be.

How Often Should You Update Your Will?

We advise our clients to keep their wills up to date and recommend you review them if your personal circumstances change (for example, if you have children) or every 3 to 5 years. Wills are rendered null and void by a marriage or civil partnership. Divorce too, invalidates certain provisions of a will. If possible, advice should therefore be sought before any of these events. If you buy property abroad or your nationality or domicile changes (perhaps because you plan to live abroad or were born in another country before moving here) you should also review your will.