

Why make a Will?



HEWITSONS

A Will is a legal document that sets out what you want to happen to your property after your death. It is important to make a Will for a number of reasons, such as:

- *To make sure that the people you wish to benefit on your death do so. If you die without making a Will – or die intestate, as it is known – your estate may well be distributed in a way you do not intend*
- *To nominate executors and guardians*
- *To stipulate the age at which any children should inherit*

In drawing up a Will, there are a number of points that need to be borne in mind.

Choosing an executor

Your executor is the person you appoint to safeguard your possessions, pay any outstanding debts and ensure your instructions are carried out. An executor can be anyone you choose, including a beneficiary, so long as they are over 18 years old.

If you are leaving everything to one person, it is usually convenient to make them the only executor. However with more complex estates, and particularly where children are involved, it is advisable to have two executors.

In some cases – for example, where matters are likely to be complicated or where there may be family difficulties – it is preferable to appoint professional executors, such as partners in Hewitsons.

Appointing a guardian

A guardian is the person you appoint for the day to day care of any children you may have who are under 18 years old. This appointment would usually only come into effect if the other parent dies before you.

Leaving legacies

Legacies can either be specific items detailed in your Will or certain amounts of money.

It is important to decide whether these legacies should come into effect irrespective of whether your spouse or partner dies before you. Also, at what age children should inherit such gifts, for example at 18, 21 or 25 years old.

It may be worth considering preparing a “letter of wishes” if you are making gifts of specific items such as jewellery, furniture, etc. Through such a letter, you can give all the items to one person but express the hope that he or she will distribute these in accordance with any list of beneficiaries and items you may leave at your death. This is a very flexible arrangement and you can change the list at any time without the legal formalities and expense of altering your Will.

Giving the residue of your estate

The residue is what is left of your estate (except, generally speaking, any jointly owned assets) after all debts, legacies, inheritance tax and legal fees have been paid. Jointly owned assets usually pass automatically to the other joint owners.

You must specify in your Will who is to inherit the residue and in what proportions. You should also cover what should happen to the residue if any of these people die before you. Again, if children are to benefit, you can specify the age at which they should become entitled to the residue.

Care is needed in considering the tax implications of imposing age contingencies on gifts to children.

Funeral arrangements

You can use your Will to specify your particular wishes in respect of your funeral, for example whether you want your body to be buried or cremated. You can also state whether you are willing for your body to be used for therapeutic use or medical research after your death.

Reviewing your Will

Review your Will regularly, when circumstances change, and at least every five years. It saves trouble and money to have your affairs in order.

Please remember . . .

If you get married or enter into a civil partnership, any pre-existing Will is automatically revoked and becomes null and void. This means that if you die without making a new Will, then your estate will pass to certain of your relatives as specified by law under the intestacy rules.

If you get divorced or dissolve a civil partnership, any gift in your Will to your former spouse is cancelled, as is their appointment as an

executor. However, the rest of the Will stands and this can create confusion and problems in ensuring that your wishes are met as you intended. It is better to make a new Will to reflect the change in your circumstances.

If you make no (or only limited) provision for a spouse, partner, former spouse, a child, or anyone else who is financially dependent on you, then it is possible that they could make a future claim against your estate. If this applies to you, do seek professional advice when drawing up your Will to avoid undue costs and distress to the beneficiaries.

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