

HOW DO I MAKE A WILL?



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solicitors

The purpose of this leaflet is to set out various matters that you will need to consider when giving us instructions to prepare your Will. Hopefully this will enable you to give some of the difficult matters some thought prior to any meeting or call.

1. Funeral Wishes

The first item normally included in a Will is a statement of your funeral wishes - i.e. burial or cremation. It is better to leave any further detail in a note to be left with your Will. This note can then be amended, by you, informally, at any time without having to change the Will itself. We suggest that a copy of the note goes with the Will for safekeeping.

2. Executors

Secondly you will need to consider who are to be your Executors. These are the people who carry out your wishes as specified in the Will. They should be people you trust and, preferably, about the same age as, or younger than, you (although they must be 18 and mentally capable). This is so that they are likely to be alive when you die. We always recommend that you make provision for the possibility that one or more of your preferred choices being unable to act for any reason, by nominating one or two substitutes. If there is no one in particular that you wish to specify, we at Anthony Collins Solicitors will willingly act. With many years experience in dealing with Estates, we are able to handle most, if not all of the paperwork and relieve the family of that task. We also bring an impartiality, which may well be desirable.

3. Guardians

Next, if you have children under 18, you should consider appointing guardians to look after the children should one or more of them still be under 18 on the death of the surviving parent. The guardians may be different to the Executors and should obviously be people who are willing to take on the responsibility, and who you trust to bring up the child/children as you wish.

4. Your Assets (commonly called "your Estate")

You should then consider to whom you wish to leave your Estate. You may want to leave everything to one person – which often happens as between husband and wife or civil partners, in which case it may well be sensible for that person to be the only Executor. In this type of situation we would normally recommend that the recipient (or "beneficiary" as they are legally called) only inherit your Estate if they survive you by 30 days. This not only prevents your assets being distributed under the beneficiary's Will and therefore, possibly going to people you would not have wished, but may also save your family inheritance tax.



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You may want to leave your Estate to an individual, but ensure that, on their death your Estate then passes to one or more people of your choice. This might, typically, arise where you want your Estate to pass to your partner and then to your children on your partner's death. By leaving everything to your partner or someone else outright, they are then free to do with it what they wish – even ignoring any specific instructions you may have given them.

In these circumstances your wishes will probably best be achieved by creating a Trust under your Will, such that your partner, or whoever, becomes entitled to occupational rights and the income from your Estate during their lifetime and then, on their death, the Estate passes as you have directed. Modern Trusts can be extremely flexible and we will happily discuss this aspect in more detail if you wish. A Trust can be particularly helpful in ensuring that your children receive your Estate where, for instance, the surviving partner to a marriage remarries or a civil partner registers another civil partnership; in those circumstances it can otherwise be very difficult to determine what belonged to you, so as to ensure it passes to your children or somebody else. If your Estate is small it may be inappropriate for you to leave it in Trust, because of the costs of running Trusts. We will happily discuss this with you. Trusts can also be beneficial in a number of other scenarios, offering protection for the survivor and your family.

It is of course possible to leave everything equally between more than one person i.e. between your children, or brothers and sisters, if you wish. You should also consider who is to inherit your Estate if the nominated beneficiary dies before you or, if there is more than one nominated beneficiary, if one of them dies before you – or without surviving the appropriate period. Likewise with a Trust, you must specify who is to inherit on the death of the person who is to receive the income.

You may also wish, with children or grandchildren for instance, to specify the age at which they are to inherit. We would normally recommend the age of 21 but this will have tax complications but by that age, hopefully, the individual will be able to handle their inheritance wisely. In those circumstances you will need to have at least two Executors as in any Will where a Trust arises.

5. Legacies

It is also possible to leave specific items, or specific amounts or cash, to specific individuals or charities in your Will. These specific gifts are called legacies. If you wish to leave legacies we need to know the full name(s) and address(es) of the individual(s) and or charity/ies. For a charity we also need to know the registered charity number and will assume the gift is for the charity's general purposes unless you say otherwise. For an individual we also need to know if s/he has to reach a particular age before they become entitled.

We will assume that all legacies are free of tax but subject to any mortgage on the property as appropriate. We will also need to know the amounts in question and/or a detailed description of any item(s) to be given.



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6. Administrative Provisions

Finally we will include certain technical clauses in the Will to ensure that your wishes can be carried out as smoothly as possible after your death.

This is only a very brief outline and there may well be other matters that will need considering in conjunction with your Will – for instance any "rights of appointment" that you may have under someone else's Will, or under a life insurance policy or pension scheme and also what is to happen to any property or bank accounts you own jointly with someone else. We suggest that you make a note of any such additional matters or queries that you may have to discuss them when you call.

Personal Profile Form

If you have not filled in one of our personal profile forms, please let us know and we will send one to you. The personal profile form asks you to provide us with details about you, your family and your finances. This information is essential if we are to advise you properly in connection with your Will and provision for your family after your death.

Whilst considering your Will we would suggest you review your affairs generally and in particular Lasting Power of Attorney, Declarations of Trust and Living Wills as well as your insurance and pensions cover as appropriate.

Lasting Powers of Attorney

These documents enable others to deal with both your financial affairs and, separately, to be involved with health and welfare decisions on your behalf. This not only simplifies matters for your relatives or friends, particularly if you become mentally unable to manage your affairs, but can also save them expense and worry on your behalf. We will readily advise you further.

Declaration of Trust

If you own property jointly with another, it is important that it is clear how the costs of purchase were contributed, expenses of maintenance and improvements are to be paid and also the sale proceeds are to be distributed. If there is no specific document (normally a Declaration of Trust) clarifying these issues, you may find that you are not entitled to all you thought you were! Now could be an ideal opportunity to check the position and complete any necessary documents .



... ensure that your wishes can be carried out as smoothly as possible...



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