

A Guide to Making a Will

Making a Will

Why should I make a will?

Making a will is the only way you can be sure that your wishes will be followed after you die. If you don't make one, part or all of your estate may go to people who you never intended to benefit. Not only that Inheritance Tax legislation means that, if you don't prepare properly, a substantial part of what you leave behind may go to the state.

Thankfully it is easy, quick and inexpensive to have a will drafted by a properly qualified professional.

What about homemade wills?

Homemade wills can be disastrous. You may omit particularly important details, such as what you wish to happen if the main beneficiary does not survive. It's always worth talking to a professional to make sure everything you need to cover is included in your will.

What should I consider when writing a will?

Wills aren't solely about passing on your assets. You can also include specific funeral arrangements: for instance burial, cremation or the use of your body for medical research. You may also want to appoint legal guardians to care for your children if you and your partner should die before they are 18.

One other important consideration is the appointment of your Executors – the people who will deal with your estate in the event of your death. Ideally, these should be business-minded family or friends or professional advisors. Three is an ideal number – for instance two family members and a professional.

What else can I include in my will?

You may choose to use your will to pass on business interests: for instance, you could leave shares in the family company to a son or daughter who has come into the business. This is a very tax efficient way to leave assets to your intended beneficiaries. Personal items like jewellery, paintings and heirlooms can also be covered in a will, as can any gifts you wish to make to charity.

Can I leave money to my favourite charity or cause in my will?

Yes. In fact many people who give a charity choose to leave something behind to their favourite cause or causes when they pass away. Not only does this create a fitting legacy, it also passes on some excellent tax advantages to the charity receiving it. Indeed, legacies from committed supporters make up a very important income stream for many charities. If you do want to leave something to a charity, the donation can be as small or as large as you like. However, much you decide to

give, you can rest assured that the charity will not have to pay any Inheritance Tax on the donation.

On the other hand, you may wish to leave assets to a charity by setting up a Trust. Similar tax advantages apply, and you can also arrange for a charity to start benefiting from your donation before you die. If you feel that it would be appropriate to leave a charitable donation in your will, your solicitor will be able to advise you on what exactly is best suited to your circumstances.

What are the tax advantages in writing a will?

Inheritance Tax is the tax that is paid on your estate when you die, as well as on some assets that you may have given away during your lifetime. Under current legislation, if the estate you leave behind is less than the 'nil-rate' band (which varies each tax year) your beneficiaries will not have to pay Inheritance Tax. However, if your estate is worth more than the threshold, they will have to pay Inheritance Tax on anything beyond the nil-rate band. Further details of the current tax threshold are available on the Inland Revenue website www.inlandrevenue.gov.uk/cto/iht.htm

One way to avoid Inheritance Tax is to leave your assets to your spouse, as they will be exempt from the tax. However, this does not apply to couples living as 'partners' rather than married couples. Also, once your spouse dies, there can be no such exemption and his or her whole estate will be eligible for Inheritance Tax.

A more effective way to limit Inheritance Tax is for you and your spouse to make the most of your nil-rate bands and set up a 'Discretionary Trust' in your will. Your solicitor will be able to give you more details about how to do this. Of course, another way to limit your estate's exposure to Inheritance Tax is to make a donation to charity – which will be totally free of tax.

Inheritance Tax is a complex subject, and if you have a potentially large estate you should seek professional advice.

What happens if my circumstances change?

It's important to review your will regularly – at least once every five years. After all, life never stands still. Your family circumstances may change, as may the relevant taxation laws.

Is there anything else I need to consider?

Once you have made a will you'll be able to enjoy the reassurance of knowing that your affairs will be taken care of after your death. But did you know you could also set up an arrangement to look after things if you become incapable during your lifetime? This is known as an 'Enduring Power of Attorney'.

How does an Enduring Power of Attorney work?

To ensure that your affairs will always be taken care of, you can appoint an attorney to safeguard your interests and act on your behalf if necessary. You are entitled to appoint more than one attorney to act together or separately. If you ever do begin

to lose your mental capacity your attorney applies to the Court of Protection and registers the Enduring Power of Attorney and they then take over the management of your affairs. Your attorney is always subject to the Court of Protection's jurisdiction.

What is a Trust?

If you'd like a person or favourite cause to benefit from your assets – cash, shares or property – then a Trust could be the answer. A Trust transfers the assets to a small group of people or a Trust company (the 'Trustees') with instructions as to how they use them to benefit someone else (the 'beneficiary').

You can set up a Trust to come into effect after your death, or to function in your lifetime. If you choose the latter you can appoint yourself as a Trustee so that you retain some control of the assets.

Why should I think about making a Trust?

There are two main reasons for setting up a Trust. Firstly, you may want to reduce your exposure to Inheritance Tax. For instance, by placing assets into a Trust you are effectively reducing your wealth and consequently your tax liability. And, if you use a Trust to give to charity, you can leave unlimited assets to your favoured cause, all of which can be free from all forms of tax.

The second reason for setting up a Trust is that it can be the perfect solution in certain domestic situations. For, example, if you wish to leave something to children or grandchildren who are currently very young, a Trust can hold the assets until they are old enough and wise enough to receive them. Or, to take another example; if you are leaving your wealth to your spouse in your will, you may want to ensure that some of it remains for your children. A will Trust can ensure that the capital is protected.

What types of Trust are there?

Most Trusts fall into one of the two main categories. 'Interest-in-possession' Trusts are those where the income from the Trust must be given to the beneficiary you specify. 'Discretionary Type Trusts' are where the Trustees decide how to allocate the benefits.

The Charities Aid Foundation (CAF) has a scheme whereby it acts as a Trustee to manage your legacy as a Trust. The payment is used to benefit the types of charities set out by you in a Letter of Wishes. For further details of this scheme, talk to your professional adviser.

Will a Trust be right for me?

Trusts are one of the most flexible ways to give. Indeed, it has been said that for every family situation, there is a Trust that can be constructed to suit the need. Creating the right type of Trust to match your particular situation takes skill and expertise. If you are considering setting up a Trust it is worth talking to a professional to gain specialist help and advice.

What should I do now?

If you are making a will or setting up a Trust it's worth speaking to your solicitor about your plans in detail. Everyone's circumstances are different, and your solicitor will be able to advise on the best options available to you.

Please don't forget to consider leaving a donation to a favourite charity of cause. Donations in wills prove invaluable to many charities, helping them to provide vital services that can lead to a better life for the disadvantaged, less cruelty to animals, a better environment, real progress in the search for cures for life-threatening diseases... the list goes on and on. You could be making a valuable difference for the causes you care about most.

FAQ's

What have I got to leave?

If you own your own home, how much is it worth? Have you any savings or investments? Valuables? Jewellery?

Who do I want to help?

Of course you must make provision for your family and friends first. Make a list of their full names and addresses for your solicitor.

Who has made a difference to my life?

Has a charity helped you or someone you love? Which causes are important to you? Which appeals have really moved you? If you know them, make a note of their official charity name, address and registered charity number to give to your solicitor.

Executors and Guardians

Write down the full names and addresses of those you would like to be Executors of Guardians of your will.