

Making your Will

Why make a Will?

According to research fewer than one third of adults have made Wills and one in six Wills are out of date. If you do not make a Will the law decides what happens to your estate and this may not be what you expect or intend. You may also fail to take advantage of possible tax planning opportunities and your estate could incur more tax as a result.

You can use your Will to:

- decide who will inherit your assets
- save Inheritance Tax
- appoint Executors – the individuals responsible for winding up your affairs in accordance with your wishes
- appoint Guardians to look after your children and Trustees to manage their inheritance until they are mature enough to do so themselves
- leave a gift to a good cause, or something special to a friend or loved one.

Married couples & registered civil partners

An existing Will is normally revoked by marriage or registered civil partnership.

Do not assume that because you are married everything automatically passes to your spouse/ civil partner on death. This is not necessarily the case, particularly if you have children and your estate exceeds £250,000, or if you do not have children, but your estate exceeds £450,000. If you own a home worth more than £250,000 your spouse/civil partner will not necessarily be entitled to it.

If your combined estates are above the inheritance tax nil rate band you may wish to consider the possible advantages of including certain tax planning measures in your Wills. Otherwise your estate may end up paying more tax, leaving less for your beneficiaries.

Home ownership & cohabitation

Registered same sex civil partners now have the same rights as married couples. However, unmarried or unregistered couples who live together must make Wills if they wish to leave assets to each other. The law does not give a surviving cohabiting partner the same rights as married couples or civil partners.

If you do not have a Will your partner could get nothing and may even be forced to leave the property you occupied together. There is no such thing as a 'Common Law Spouse'.

Cohabiting couples have no right to claim part of their partner's pension. If a cohabiting couple have children the father may not automatically have parental responsibility and, therefore, guardianship in the event of the mother's death.

If a couple have lived together for more than two years, or a surviving partner was financially dependent on the deceased, a surviving partner can make a claim against the estate for financial provision. However, this involves complicated and lengthy legal proceedings that might otherwise be avoided by making Wills.

The dangers of homemade Wills

Will drafting is a highly specialised area of law that should only be undertaken by qualified, experienced professionals who are properly insured. A Will is a legal document that must meet all the requirements laid down by law in order for it to be valid.

There are often hidden complexities not appreciated by an individual when making a Will and which only come to light on a proper review and consideration of personal circumstances. Attempting to save the relatively modest cost of a professionally drawn Will could subsequently cause distress and financial loss to your loved-ones.

Keeping your Will updated

Whilst Wills are normally drafted to take account of likely future circumstances, it is wise to review your Will every few years to reflect changes in your life and taxation. You should review your Will on any of the following events:

- entering into a marriage, registered civil partnership or co-habitation
- the birth of children in the family
- the death of your spouse, partner or other member of your family
- divorce or separation within the family
- receiving a significant inheritance or a personal injury award
- moving abroad, moving house, changing jobs or considering a sale of your business.

Independent Financial Review

From time to time you may also benefit from a review of your investments or financial circumstances. As solicitors, we are not authorised by the Financial Services Authority to provide such advice. We can, however, refer you either to our associated investment managers, Thesis Asset Management plc, or to one of our preferred Independent Financial Advisors. Please contact us if

you are interested in having an independent financial review.

We can help

Thomas Eggar LLP offer a bespoke Will drafting service, tailored to suit your individual requirements, including:

- using plain English to prepare and explain your Wills using the minimum legal jargon
- visiting you at home, seeing you at any of our offices, or sending you a checklist to complete and return
- accessing our extensive experience of preparing Wills and administering estates and trusts
- safe storage of your Wills and other important deeds and documents, free of charge
- providing you with or arranging advice on other legal, tax and financial matters.

If you wish to receive further advice on the preparation of Wills and other estate planning matters, please call 0870 160 1300 or email pcd@thomaseggar.com.

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