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SOLICITORS

Making a Will

Providing for the future

PROVISION
GIFTS
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TRUSTS



Why make a Will?

When you die your property and affairs must be dealt with. Making a Will ensures that any specific intentions you have for the division or disposal of your property, money and possessions after your death can be efficiently carried out.

A Will is particularly important when you need to:

- Provide for your children – especially if you are separated or unmarried
- Provide for an elderly or disabled relative
- Make provision for a friend
- Make a gift to charity
- Minimise administration costs
- Minimise tax liabilities
- Prevent added stress and worry to your family at a time of bereavement.

What if I do not make a Will?

If you die without making a valid Will, you are deemed to have died "intestate". Should this occur then the general laws of intestacy will apply to your estate and this could result in your affairs not being handled in the way you would have wished. This could lead to, for example:

- Your spouse / civil partner receiving only a fraction of your assets
- Only blood relations benefiting – to the exclusion of friends and in-laws
- Co-habitees being excluded from a distribution of the estate
- Statutory trusts being set up for children and grandchildren on terms you might not like
- Increased tax liabilities
- Increased cost of administering your estate.

Why use a Solicitor?

To ensure that your Will expresses your wishes and is legally valid. In addition, your LawNet Solicitor can give you advice on related matters such as inheritance law and taxation.

What Gifts can I make?

- Personal belongings – you may wish to leave specific items to a particular person or persons. If so, it is important that this is clearly stated in your Will so as to avoid misunderstandings which could, for example, lead to items being incorrectly sold.
- Legacies of money – you may wish to leave a specific sum to a particular person, for example, a grandchild. It is important that your Will deals with the position clearly and states whether any children have to attain a particular age before receiving the legacy.
- Residue – this means the remainder of your estate after payment of Inheritance Tax, debts, administration expenses and any legacies given in your Will. You may wish to leave your residue to one person or you may wish to divide it up between a number of people in equal or unequal shares.
- Charity – you may wish to give your residue to charity. Again, this must be clearly stated. It is worth noting that bequests to charity are free of Inheritance Tax and can, therefore, reduce the overall Inheritance Tax liability of your estate.
- Children – we will be able to advise you on the best way to make gifts to children.

Providing for Children

- Guardians – you will be able in your Will to suggest guardians to care for your children in the event they are left without parents.
- Disabled children – you will be advised about the best way to make provision for them, both immediately and in the long-term.
- Step-children or adopted children – we will advise you of the provisions you can make to protect their interests after your death.

Marriage and Separation

Any of the following circumstances will probably necessitate drawing up a new Will:

- Marriage / Civil Partnership – this usually invalidates an earlier Will entirely
- Divorce – can make part of a Will ineffective
- Separation – will not prevent a spouse from benefiting from a prior Will or under the rules relating to intestacy.

Do I need Executors?

Yes. Executors are the people who will be in charge of looking after (administering) your estate after your death. You need to decide carefully who they should be and specify them in your Will. It is possible for a person who benefits under your Will to be an Executor.

If you wish, your LawNet Solicitor will be pleased to act as your Executor.

Taxation

You can avoid burdening your Estate with unnecessary tax liabilities by including the correct provision in your Will. You may be able to pay less tax and hence leave more money to your beneficiaries by taking advice on the following:

- Tax exemptions
- Lifetime gifts
- Gifts to children and grandchildren.

Trusts

Trustees may be appointed to hold money or assets in trust for young children or others. It is important that Trustees are given special powers to enable them to carry out your wishes.

Signing and Safe Custody

There are very strict rules to be followed when a Will is signed and witnessed. Your solicitor will ensure that they are followed.

Your Will and/or any other important documents should be kept in a safe place and may be kept in our strongroom.

In no circumstance must you attempt to change your signed Will by crossing out a section or simply writing in a new provision.

Changing your Will

You may change your Will as often as you wish. If you want to make changes, this will require a new Will. Minor changes can be affected by means of a "codicil". This is a legally binding amendment to the Will which makes the appropriate alteration but confirms that the rest of the Will remains valid.

In no circumstance must you attempt to change your signed Will by crossing out a section or simply writing in a new provision.

Updating your Will

Whether or not major changes have occurred in your life, you may find that your Will needs to be updated from time to time. Generally, you should review your Will at least every three years and ensure that its provisions accurately reflect your circumstances.

There are, however, certain situations in which you must update your Will:

- Marriage (or re-marriage) / Civil Partnership – which usually cancels a previous Will
- Divorce – where a former spouse will usually be treated as if omitted from your Will
- Separation – which does not effect a Will or entitlement on intestacy. However, you may want to ensure that gifts are not made.

You should also ensure that your Will is up to date following the birth of children, inheritances, family deaths and other major changes in your circumstances or in your family.

What should I do next?

If we have acted for you before, then please contact the person that you last dealt with and they will make the necessary arrangements. If we have not acted for you before, then please telephone one of our offices and ask to speak to a Wills and Probate specialist.

This booklet deals in general terms with a complex subject. Whilst we believe the contents to be correct, they should not be regarded as sufficiently full, accurate or precise so as to apply to any particular situation.

You must always seek legal advice concerning any situations referred to in this booklet. No responsibility for any loss suffered by any person as a result of acting or refraining from acting in reliance upon the contents of this booklet can be accepted by this firm, its author or LawNet Ltd. This firm is regulated by the Solicitors Regulation Authority.

Mercers Solicitors is one of the oldest law firms in the Thames Valley, having been established in Henley-on-Thames in 1827. Ever since then our client-focused approach has been helping generations of families to meet their legal goals.

We specialise in Private Client work including Lasting Powers of Attorney, Wills, Probate and Inheritance disputes, Residential Property and Litigation.



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