

10 reasons to write a Will

1 You need to appoint Guardians for your children – this is vitally important.

In the absence of a Will it would be the Courts/Social Services who decide where your children are best placed and it might not be with whom you thought would look after and raise your children. By making a Will with Guardians named for your children you can avoid this uncertainty. You should also consider putting in place life insurance to provide for your children in the event of your death. Consider this – it could be very difficult if one day two children turn up on your doorstep expecting to be looked after until they are 18 and there is no money there to fund them!



2 To avoid Intestacy.

If you don't make a Will then the Government have already made one for you. These are known as the rules of Intestacy – you are said to have died “intestate” if there is no valid Will at the time of your death. For example, if you are married and die with a spouse and children then your spouse does not automatically get everything – if your Estate is less than £250,000 everything goes to the surviving spouse. However, if the Estate is over £250,000 then the surviving spouse gets £250,000 and all personal possessions. Half of the remaining Estate is split equally between the children with the spouse retaining a “life interest”, for example an income from the remaining 50% with this 50% ultimately being split between the children on second death.

As you can see – assets being allocated in this manner can and do cause problems after death.

If you don't have any living relatives, your possessions could be sold off and the 'Crown' (Government) keeps the proceeds.

3 If you are not married, then you need to make a Will.

There is no automatic transfer of assets between couples who are cohabiting. Other than jointly owned assets, which would pass to the surviving owner on first death in law, all other assets could pass back to the deceased's family under intestacy rules. In practicality it is unrealistic to expect your deceased partner's family to come asking for his/her DVD collection but a Will formally arranges your affairs after death and avoids problems later.

4 If you are separated but not yet divorced.

A Will should be written in view of the divorce going ahead as there is a possibility in law that, in the event of your death, your assets could pass back to your ex-partner. Although you are separated, even if you split up with them years ago, in the eyes of the law your ex-partner may still be entitled to your Estate after your death.

5 If you have been married previously or you don't trust/like your spouse's family.

You might care to write your Will so that in the event of you both dying together your assets do not end up passing to your spouse's family. For example, if you were killed in a car crash, in the eyes of the law the eldest person is deemed to have died first. It is, therefore, possible that in their Wills they leave all their assets to their families – you could see your assets momentarily pass to your spouse before passing straight to her family. Is this what you want to happen?



6 To allocate assets between different people.

You may wish to leave jewellery to a niece or leave war medals to a grandson. A Will can formalise all these gifts and help prevent family arguments – remember this – family and money rarely mix!

7 Reduce the amount of Inheritance Tax you pay.

In the current tax year we can each leave an estate of up to £325,000 (set until next review in 2018) with immediate liability to inheritance tax. Anything we own, over and above this £325,000 Nil Rate Band is chargeable to Inheritance Tax at a rate of 40%. A Will could be written to leave up to £325,000 to be split equally between children or held in Trust for their benefit. Under a normal “British” Will it is usual for all assets to pass between husband and wife. It might be prudent to still include a Will Trust to hold £325,000 for the benefit of your children – leaving all your assets to your spouse could result in that money being ‘eaten up’ in care home fees. It is vitally important that you take legal advice in this respect.

8 A Will can be used to make assets skip a generation.

It may be that your own children are financially successful in their own right. Passing assets to them on your death may be of no benefit and could simply compound their own Inheritance Tax problems later by artificially expanding their Estates. If this is the situation, then why not leave your Estate to benefit your grandchildren, or even great-grandchildren if that is the case.

9 A Will can be used to set up a Trust.

If you are fortunate to have a very large Estate you may choose to set up a Trust to benefit a local charity or Support Group in terms of providing them with a regular income. Seek legal advice if you are considering this course of action.

10 Trusts are usually set up for one of the following reasons:

- ▶ To hold assets on behalf of a child until they reach the age of 18 or 25. Doing so allows for the property or money to be properly managed until the children are old enough legally to take possession of it. Some types of trust allow the beneficiary to receive an income from the property.
- ▶ To reduce the Inheritance Tax liability. Putting assets into trusts can in some cases reduce or even eliminate the inheritance tax liability for that asset; it can also help to keep the value of the estate within the nil-rate band.
- ▶ To provide for your spouse while keeping the estate intact to be passed to your children.
- ▶ To protect the family home from being sold in order to pay for residential care.