

# Making a will won't kill you

## The plain facts about keeping your affairs in order

**As a nation we are bad at looking after our own affairs. Only around a third of all adults has made a will and statistics suggest that around three-quarters of those wills are now out of date. When someone fails to put their affairs in order there is no guarantee that their wishes will be carried out. It can also leave untold distress and disorder for others to deal with. Here are the facts.**

### Why do I need a will?

If you are over 18 you should make a will. It will allow you to make sure that the right people inherit what you leave. It can help to avoid or reduce the amount of tax due when you die. It will also save those close to you from added distress, uncertainty and unnecessary legal costs.

### What happens if I don't make a will?

When someone dies without a will, the State steps in and the Rules of Intestacy apply. The rules are precise and strict and there is no room for negotiation or weighing up the merits of one person's claim over another.

In the absence of a will, if you are unmarried and living together, it is likely your partner will not inherit anything. Even if you are married, or in a civil partnership, your whole estate may not pass automatically to your spouse/ partner. If you have no relatives at all, the government could inherit everything.

### How do I make a will?

Consult a solicitor. It is very easy to make a mistake with a home-made will and any mistake could mean that your wishes are unclear or could even make the will legally unenforceable.

### How often should I review my will?

A will should be reviewed at least every five years or earlier if circumstances change. For example life changes such as marriage, civil partnership, re-marriage, divorce or the birth of a child may mean a will is out of date or invalid.

### What should be included in my will?

We have prepared a checklist of the sort of issues you need to consider. Please contact us to request a copy.

### Should I set up a trust?

For tax planning purposes, you may wish to put money or property into trust for others in order to reduce your own estate.

A trust can also help maintain some control over gifts left in your will. This can be particularly valuable if those inheriting are unable to manage their own affairs, for example because of mental or physical disability. A trust can also help to protect your children's inheritance.

### Do I need a lasting power of attorney?

Everyone should consider making a lasting power of attorney (LPA) regardless of age, health or wealth. Even if you are young and active, we advise you to make one. We can hold it securely in case it is ever needed.

### How does an LPA work?

An LPA allows you to choose one or more people who would manage your affairs for as long as necessary should you become incapacitated at any time. It can stay on file indefinitely in case it is ever needed.

Most commonly, it allows a son or daughter to take on the affairs of an elderly parent who has become too ill or confused to look after themselves. There are many other situations, such as sudden illness or accident (particularly if you are away from home or out of the country) when, in the absence of an LPA, your affairs could be left unattended.

### Who would I appoint in an LPA?

Many people nominate members of their family but where there are no close relatives we are often asked to act. If possible, it is sensible to appoint someone of the next generation.

### What happens in the absence of an LPA?

If someone becomes incapable of making an LPA, the only course open to their family is to apply to the Court of Protection. This is an expensive and lengthy process which can prove tiresome and distressing for families.

### **How can Willans help?**

Our knowledgeable team handles all aspects of wills, trusts and inheritance tax planning, in many cases based on long-term client relationships and in some instances, acting for second or even third generations.

- We advise on wills and tax planning to make the most of your assets for those people that you wish to inherit.
- If you have been appointed as executor in someone's will we can provide experienced and practical help throughout the process.
- If you have inherited under a will, prompt advice can save tax. Consult us as soon as possible.
- We prepare and administer family trusts to help avoid tax on your death while leaving you in control in the meantime
- We prepare Lasting Powers of Attorney and advise if they need to be used.
- We advise and act in probate disputes over contested wills.
- We provide independent and personal support to many elderly clients, helping them to manage the practical aspects of running their lives.

### **More information**

Information on lasting powers of attorney can be downloaded from the wills and probate page of our website, under the services menu.

### **Contact**

Please contact the head of our wills, probate and trusts team.

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