

# Things to consider before your Will Appointment

## Value / Composition of your Estate

You should prepare a summary of the estimated value of everything you own – including houses and other property, cash, savings, investment bonds, ISAs, cars or other vehicles, jewellery, antiques, any other items of value, etc. If you have property, you should know how it is owned, i.e., solely, jointly or as tenants in common. You should also consider whether you would like your spouse/partner to continue to live in the property after your death and whether you would like to protect your share of any assets for your children in the event that your spouse/partner were to re-marry.

You should also prepare a summary of any debts/liabilities you have, as well as any business interests you would like to include within your Will. If you have business interests, you should check any relevant partnership agreements, shareholder agreements or articles to ensure that your wishes for your business interests will be achievable in accordance with the terms of these documents.

You should know the details of any insurance policies you have in place which may cover payment of inheritance tax or mortgages and loans on your death. You may also have ‘death in service’ benefits via employers. You should check whether life policies are written in trust or not i.e., with nominated beneficiaries. If you have any pension funds you should know whether these include any benefits payable on your death and whether these will be paid to your nominated beneficiaries.

## Funeral Arrangements

You can specify whether you want your body to be buried or cremated. You can also state whether you are willing for your body to be used for medical research. You may have other wishes to be recorded here, for example details of a funeral plan or specific wishes for the ceremony, etc.

## Executors

An executor is the person (or people) you appoint to safeguard your possessions, apply for a Grant of Probate, collect your assets in, pay inheritance tax and any debts and ultimately ensure your instructions in the Will are carried out. An Executor can be anyone, even a beneficiary, over 18 years of age. If you are leaving everything to one person, it is usually convenient to make them the only Executor. With more complicated estates, and particularly where children under 18 are involved, it is advisable to have at least two Executors but any more can be problematic when decisions must be made together, and signatures are required.

We would always recommend that you consider replacement Executors in case your first choice Executors are unable or unwilling to act. In some cases (e.g., where matters are likely to be complicated or where there may be family difficulties) it may be preferable to appoint professional executors, such as a legal specialist or financial adviser, to act either solely or alongside your other Executors. Bear in mind that there may be additional costs to your estate when using professional Executors.

## Children

If you have children under 18 and they are to be beneficiaries, you will need to appoint at least 2 trustees. The trustees can be, and often are, the same as your Executors. You should consider who you would like to be the guardians of any children of yours who are under 18. This would generally only come into effect if the other parent dies before you or at the same time. A guardian is someone responsible for the day-to-day care of your children. It is possible to appoint more than one person e.g., a sibling and their spouse but this could cause difficulties if, say, they were to divorce in future. It is often more useful to appoint a sole person as your first choice with a reserve who could step in if needed. It may also be prudent to consider the funds that would be available to the guardian(s) to look after your children.

## Legacies/Gifts

You can leave sums of money or specific gifts. You can leave them, if they belong solely to you, without difficulty. However, you may need to consider if they will be needed by a surviving spouse/partner. In such a situation you will need to make some provision, such as a life interest to the survivor, to cover this situation. Remember that if you leave something to your surviving spouse in the belief that they will honour your wishes in respect of it they are not obliged to do so.

If the gift (particularly of money) is to children, you will have to decide at which age they will be able to fully enjoy it. If you do not stipulate, they will be able to access it at 18.

If you are making a number of gifts of specific items such as furniture, jewellery etc, it may be worth considering writing them into a 'letter of wishes'. In your Will you may give all the items to your Executors and express the wish that they distribute the items in accordance with any list of beneficiaries and items you may leave at your death. This is a very flexible arrangement, and you can change the list at any time without the legal formalities and expense of updating your Will.

Some people will also include their pets within their Wills. You could also leave a sum of money to the person you have chosen to care for your pet for their lifetime to ensure they have sufficient funds to care for the animal and pay for insurances and vets fees, etc.

## Residue

This is what is left of your estate (except any jointly owned assets), after payment of debts, legacies, any Inheritance Tax, and legal fees. Jointly owned assets usually pass automatically to the other joint owner(s). You must, however, specify who is to inherit the residue, and in what proportions. You should also cover what should happen to the residue if any of these people die before you. If children are to benefit, you can specify the age at which they become entitled. Beware the age point referred to under *Legacies* above.

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## Other Considerations

On marriage (or remarriage), your old Will is automatically revoked and has no effect. If you die without making a new Will your estate will pass to a list of your relatives specified by law (under the intestacy rules).

On divorce, any gift in your Will to your ex-spouse is cancelled as is any appointment as Executor but the rest of the Will stands. This can create problems and it is usually better to make a new Will in those circumstances.

If you are not making any provision for a spouse or partner, or a former spouse, or a child, it is possible that they could claim against your estate. If this applies to you, you should seek further advice about this to minimise the risk of a successful claim being made on your death.

An estimated 40% of Wills go missing and it is only the original document which is normally valid for probate purposes so you should make arrangements to store your Will somewhere safe and secure.

When making a Will, you should also consider what would happen in the event of you losing mental capacity through accident or illness during your lifetime. It is advisable to create Lasting Powers of Attorney to appoint an attorney (usually a trusted friend or family member) who could deal with your finances and property, as well as your health and welfare, should you be unable to do so yourself.