

Making a Will



Forrester Sylvester Mackett

SOLICITORS

What matters to you matters to us



Many people are put off making a Will in the mistaken belief that everything will automatically go to their next of kin. However if you die without a Will, the law will dictate what happens to your money and property (your estate) and this may not be what you would have wished to happen.

You choose who inherits your estate

The rules which govern what happens to an estate when someone dies without a Will are called the Intestacy Rules. They only include people you are legally married to (including a formal civil partner) and any of your blood relatives. Amongst others, they do not recognise:

- Partners – a common misconception is that a 'common law' partner is treated in the same way as husbands and wives. This is not true! It is particularly important that unmarried couples with children make a Will.
- Step-children
- Step-grandchildren
- Friends / carers

You choose who deals with your estate

The rules of Intestacy also govern who deals with winding up your estate. If your nearest relative is going to find it difficult to wind up your estate, you may wish to leave a Will to appoint another relative, a friend or a third party to be your Executor. Contrary to common belief, a beneficiary can also be an Executor.

You can say who will care for your children

A Will allows you to state what arrangements are to be made for your children. For example you can appoint a Guardian to look after your children on a day to day basis. You can also appoint Trustees to look after your children's inheritance until they are old enough to receive it. The Will can also specify the age at which you would like them to inherit. The law of Intestacy says 18 but many people prefer to choose for their children's money to be looked after until they are 21 or 25.

You may be able to find ways to avoid paying unnecessary Inheritance Tax

It may be possible to reduce Inheritance Tax through your Will and through estate planning before you die.

You can protect your estate

Writing a Will allows you to protect assets for your family for the future. For example, if you wish, you can set up trust funds to look after disabled family members, ensure that children from a previous relationship are protected and minimise exposure to care home or nursing home fees.

I made a Will years ago, do I need to change it?

We recommend that you review your Will every three to five years or if your personal or financial circumstances change.

- If you have since separated from your spouse or civil partner you may wish to amend your Will. Divorce will affect the way that your Will works and you should consider updating the Will.
- The act of getting married or entering a civil partnership usually cancels an old Will and it is important that you get advice about whether you need to make a new Will.
- A change in your financial or personal circumstances may mean that your current Will is no longer tax-efficient.
- You may be worried about future care fees and want to take some advice about how you can protect some of your estate.
- There may be a change in circumstances for a beneficiary, for example a beneficiary may be going through a divorce and it may require careful consideration as to what you should leave them.
- You may wish to add grandchildren or step-grandchildren.



Do I need a Solicitor to make my Will?

It is not a legal requirement to use a Solicitor to make your Will. However, home-made Wills are frequently fraught with problems and it can cost a lot of money after you die to put them right. Errors in signing and witnessing can make the Will invalid. The Will should be drafted to ensure that the whole of your estate is dealt with and nothing is missed out.

There are many Will writers providing Will writing services but it is important to understand that they are not required to have any legal training and they are not generally regulated or covered by any indemnity insurance, as Solicitors firms are.

If you have a business or foreign property, it is important to take professional advice on how these can be dealt with.

Our team at Forrester Sylvester Mackett will make sure that your Will fits your circumstances and is prepared and signed correctly.

What is the usual procedure for making a Will?

We recommend that you review your Will every three to five years or if your personal or financial circumstances change.

- You make an appointment to meet with us and we talk to you about your estate and your wishes and take full details of what you want your Will to say.
- We then prepare a draft Will and send it out to you as soon as possible for you to look at. Changes or alterations can be made in writing, by email or over the phone.
- We then arrange a shorter second appointment to go through the terms of your final draft Will and to oversee that it is signed and witnessed correctly. If you would prefer not to have a second appointment we can send the final Wills out to you to sign at home with full instructions.
- We can store your Will on site for no charge and let you have copies of your new Will for your records at home. We do not charge to release a Will to you (or to your Executors if you have died).

If you would like to make a Will or review your current Will, please telephone us and ask to speak with someone in the Private Client department at any of our offices below.

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