

# Why do I need a Will?



## Without a Will -

- ! You cannot be sure those you would wish to benefit will actually do so.
- ! Your spouse / civil partner will not automatically inherit ALL of your estate.
- ! "Common Law" partners may not receive anything.
- ! Minor children could be taken into care whilst Guardians are appointed.
- ! There could be lengthy delays for your beneficiaries and disputes.

## In Detail

### Why do I need a Will?

The vast majority of people put off making a Will for a variety of reasons, either believing that the people they would wish to inherit will automatically do so, or because they don't think it is relevant to them at this particular time.

The reality is that you can put off making a Will until it is too late and this poses all sorts of problems for the people left behind and could mean that some or all of your inheritance either goes to the wrong person or to the state.

### Affording you Peace of Mind

Firstly and most importantly is the peace of mind making a Will provides.

Making a Will enables you to plan exactly what will happen to your property (estate) following your demise. This ensures that those you would like to benefit actually do so, in accordance with your wishes and at the same time avoiding any possible disputes between relatives.

### Who needs to make a Will?

The answer is **Everyone**. In particular, anyone with dependant relatives, (children under the age of 18, elderly relatives or relatives with a disability who have special needs), anyone who owns property or has any type of asset which you would wish relatives, friends or charities to benefit from.

### But won't everything go to my husband / wife / civil partner / parents / children etc automatically?

This is a common misconception and dependant on the size of your estate, there are set rules which will be applied to determine who inherits and how much if you do not make a Will.

### So what happens if I don't make a Will?

This is called having died **Intestate**. There are specific rules of intestacy which set out who will inherit and by how much if you do not leave a valid will, this may not be what you would have wished and in the worst case scenarios where relatives cannot be traced, your assets will be taken by the Crown.

## Who can make a Will?

Quite simply anyone over the age of 18 who is of sound mind however:

- It is possible for members of the armed forces to make a Will under the age of 18 (advice should be sought in these circumstances)
- Under the provisions of the Mental Health Act 1983, the Court of Protection may approve the making of a Will, or a Codicil to a Will for someone who is mentally incapable of doing so themselves. Guidance about how a mentally incapable person can make a Will can be obtained from the Public Guardianship Office website:

<http://www.publicguardian.gov.uk/>  
Court of protection page.

## Is making a Will difficult?

No. You need to make a list of your property and assets and consider who you wish to benefit from your estate, ensuring provision has been made for dependant relatives. You should also consider who you would want to look after your children (**Guardians**) if they were still young.

## What makes a Will valid?

- It should be in writing, appoint someone to carry out the instructions of the Will (an **Executor**) and dispose of possessions / property
- It must be signed by the person making the will (the Testator), or signed on the testator's behalf in his or her presence and by his / her direction. This must be done in the presence of two witnesses who must sign the will in the presence of the Testator.

## Who can be a witness?

Anyone who:

- is not blind
- is capable of understanding the nature and effect of what they are doing
- is aged 18 or over

A witness should **NOT** be:

- a beneficiary in the will
- married to, or be the civil partner of a beneficiary

In these circumstances the Will remains a valid and legal document, but the gift to the beneficiary cannot be paid.

## Can I state what happens to my body in my Will?

Lots of people shy away from discussing their funeral arrangements with family and friends, so making a Will is a good way of letting people know whether you wish to be buried, or cremated and any specific requests you might have for your funeral service.

However, it should be noted that your Executors are under no obligation whatsoever to carry out funeral wishes requested in your Will.

One way to guarantee your wishes are met is to set up a **Guaranteed Funeral Plan**, you can include details of these arrangements in your Will.