

Your guide to making a will - your questions answered

Making sense of



Introduction

What is this guide about?

If you are considering putting your affairs in order by writing a will, this guide helps you get started by explaining some of the choices open to you. You'll find sections covering the reasons why it is worth making a will or a Trust, and an outline of the issues you need to consider.

This guide has been produced by Remember A Charity, a consortium of over 140 charities formed in 2000, who joined forces to raise awareness of the importance of legacies to charities. Legacies (or gifts in wills) form the foundation of charities in the UK. Many charities depend on legacies and without them they would not exist.

Remember A Charity is working to encourage more people to consider leaving a gift to charities in their will, after they've looked after their family and loved ones. Thankfully 74% of the UK population support charities and when asked, 35% of people say they'd happily leave a gift in their will once family and friends are provided for. The problem is 7% actually do. In fact, if we can raise this figure to just 11% we would create an additional £1 billion for charities in the UK every year, which would ensure that their vital work lives on.

The consortium has the backing of key bodies in the will making industry such as the Society of Trust and Estate Practitioners (STEP), the Institute of Professional Willwriters (IPW) and the Institute of Legacy Management (ILM).

This guide contains some valuable information to help make it as straightforward as possible to write, or update your will. If you have any questions about anything contained in this guide, please speak to your will provider.

If you do not have a solicitor, The Law Society can help you find a solicitor in your area by calling 020 7242 1222 or by visiting Solicitors-online at

<http://www.lawsociety.org.uk/choosingandusing/findasolicitor.law>

Making a will

1. Why should I make a will?

Making a will is the only way you can be sure that your wishes will be followed after you die. If you don't make one, part or all of your estate may go to people who you never intended to benefit. Not only that, Inheritance Tax legislation means that, if you don't prepare properly, a substantial part of what you leave behind may go to the state.

2. How should I go about getting a will?

Thankfully it is easy and inexpensive to have a will drafted by a properly qualified professional. You should check that the professional you choose:

- Has been trained and is qualified in making wills
- Has undertaken ongoing training
- Has professional indemnity insurance of at least £2 million
- Is a member of an organisation that has an independent complaints procedure

Solicitors who are members of the Law Society and will writers who are members of the Institute of Professional Willwriters meet these requirements.

3. What about home-made wills?

Home-made wills can be disastrous. You may omit particularly important details, such as what you wish to happen if the main beneficiary does not survive. It's always worth talking to a professional to make sure everything you need to cover is included in your will.

4. What should I consider when writing a will?

Wills aren't solely about passing on your assets. You can also include specific funeral arrangements: for instance, burial, cremation or the use of your body for medical research. You may also want to appoint legal guardians to care for your children if you and your partner should die before they are 18.

In your will you can make provision for the age at which young beneficiaries receive their gift or share of the estate. You can also effectively provide for any beneficiaries with particular needs or special needs and for beneficiaries with means tested health provision or care provision.

One other important consideration is the appointment of your Executors- the people who will deal with your estate in the event of your death. Ideally, these should be business-minded family or friends or professional advisers. Three is an ideal number- for instance, two family members and a professional.

5. What else can I include in my will?

You may choose to use your will to pass on business interests: for instance, you could leave shares in the family company to a son or daughter who has come into the business. This is a very tax-efficient way to leave your assets to your intended beneficiaries. Personal items, like jewellery, paintings and heirlooms can also be covered in a will, as can any gifts you wish to make to charity.

6. Can I leave money to my favourite charity or cause in my will?

Yes. In fact, many people who give to charity choose to leave something in their will to their favourite cause or causes after they have made provision for their family and loved ones. Not only does this create a fitting legacy, it also passes on some excellent tax advantages to the charity receiving it. Indeed, legacies from supporters make up a very important income stream for many charities. If you do want to leave something to a charity, the donation can be as small or large as you like. However much you decide to give, you can rest assured that UK registered charities are exempt from the 40% UK Inheritance Tax.

If you would like to leave a charitable gift in your will, your will provider will be able to advise you on the tax implications and what exactly is best suited to your circumstances.

7. What are the tax advantages in writing a will?

Inheritance Tax is the tax that is paid on your estate when you die, as well as on some assets that you may have given away during your lifetime. Under current legislation, if the estate you leave behind is less than the 'nil-rate' band (£325,000 up until 5th April 2010) your beneficiaries will not have to pay Inheritance Tax. However, if your estate is worth more than this threshold, they will have to pay Inheritance Tax on anything beyond the nil-rate band. Further details of the current tax threshold are available on the Inland Revenue website: www.hmrc.gov.uk/inheritancetax/

Since October 2007, any unused Inheritance Tax threshold from a late spouse or civil partner can be transferred to their surviving spouse or civil partner when they die. In effect, this increases the Inheritance Tax threshold for the surviving partner.

Inheritance Tax is a complex subject, and if you have a potentially large estate you should seek professional advice.

7. What happens if my circumstances change?

It's important to review your will regularly - at least once every five years. After all, life never stands still. Your family circumstances may change, as may the relevant taxation laws.

Lasting Power of Attorney

8. Is there anything else I need to consider?

Once you have made a will you'll be able to enjoy the reassurance of knowing that your affairs will be taken care of after your death. But did you know that you can also set up an arrangement to appoint people to look after either, or both, your financial and personal affairs if you become incapable of doing so yourself during your lifetime? This is known as a "Lasting Power of Attorney" and it ensures that your affairs will always be taken care of by one or more of the attorneys chosen by you to safeguard your interests.

10. How does a Lasting Power of Attorney work?

A Lasting Power of Attorney (LPA) is a legal document and there are two different types that you can set-up:

- Property and Affairs LPA, in which you choose one or more attorneys to deal with your financial affairs
- Personal Welfare LPA, in which you choose one or more attorneys to deal with your personal affairs, such as decisions about your healthcare and welfare.

The two LPAs are separate and you can appoint different people for each area. Neither document can be used until it has been registered with the Office of the Public Guardian and a Personal Welfare LPA

can only be used if you do not have the capacity to make decisions about your own healthcare and welfare.

For more information, please go to www.publicguardian.gov.uk

Trusts

11. What is a Trust?

If you'd like a person or favourite cause to benefit from your assets – cash, shares or property - then a Trust could be the answer. A Trust transfers the assets to a small group of people or a Trust company (the 'Trustees') with instructions as to how they use them to benefit someone else ('the beneficiary').

You can set up a Trust to come into effect after your death, or to function in your lifetime. If you choose the latter you can appoint yourself as a Trustee so that you can retain some control of the assets.

You should take professional advice before deciding which type of Trust, if any, best suits your circumstances.

12. Why should I think about making a Trust?

There are two main reasons for setting up a Trust. Firstly, you may want to reduce your exposure to Inheritance Tax. For instance, by placing assets into a Trust you are effectively reducing your wealth and consequently your tax liability. And, if you use a Trust to give to a charity, you can leave unlimited assets to your favourite cause(s), all of which can be free from all forms of tax.

The second reason for setting up a Trust is that it can be the perfect solution in certain domestic situations. For example, if you wish to leave something to children or grandchildren who are currently very young, a Trust can hold the assets until they are old enough and wise enough to receive them. Or, to take another example, if you are leaving your wealth to your spouse or civil partner in your will, you may want to ensure that some of it remains for your children. A will Trust can ensure that the capital is protected.

13. What types of Trust are there?

Most Trusts fall into one of two main categories. 'Interest-in-possession' Trusts are those where the income from the Trust must be given to the beneficiary you specify. 'Discretionary Type Trusts' are where the Trustees decide how to allocate the benefits.

The Charities Aid Foundation (CAF) has a scheme whereby it acts as a Trustee to manage your legacy as a Trust. The payment is used to benefit the types of charities set out by you in a Letter of Wishes. For further details of this scheme, talk to your will adviser.

There is also a Trust for a disabled person which can be set up for a person who qualifies under the definition of “disabled”. This has certain tax advantages whilst it is in operation. For further details, talk to your will provider.

14. Will a Trust be right for me?

Trusts are one of the most flexible ways to give. Indeed, it has been said that for every family situation, there is a Trust that can be constructed to suit the need. Creating the right type of Trust to match your particular situation takes skill and expertise. If you are considering setting up a Trust it is worth talking to a professional to gain specialist help and advice.

15. What should I do now?

If you are making a will or setting up a Trust it's worth speaking to your will provider about your plans in detail. Everyone's circumstances are different, and your will provider will be able to advise on the best options available to you.

Please don't forget to consider leaving a gift to your favourite charity or cause after you have looked after your family and loved ones. You don't have to be rich or famous to make a contribution that can make a difference. We can all do something amazing for the world and ensure that charities' vital work lives on simply by leaving a gift in our wills.

Notes

Please use this page to jot down any thoughts or questions you would like to raise with your will provider on your next visit.

What have I got to leave?

This is known as your estate. If you own your own home, how much is it worth? Have you any other savings, shares or other investments? Valuables? Land? Jewellery? To help you calculate what your current estate is worth, visit the gift calculator at

www.rememberacharity.org.uk/calcuete_your_gift.jsp

Who do I want to help?

Of course you should make provision for your family and friends first. Make a list of their full names and addresses for your will provider.

Who has made a difference to my life?

Has a charity helped you or somebody you love? Which causes are important to you? Which appeals have really moved you? If you know them, make a note of their official charity name, address and registered charity number to give to your will provider.

Executors and Guardians

Write down the full names and addresses of those you would like to be Executors and Guardians of your will.
