

Why you should make a Will

This information has been produced to guide you through a range of points which are relevant to making a Will - why you should make a Will, what should be covered in it and the consequences of not making a Will.

Many people who fully intend to make a Will simply never get round to it. In fact, two people in three die without one. This can cause all sorts of problems for the family left behind. We hope that the information in this guide will make the whole process clear and inspire you to action.

Your wishes

No one is obliged to make a Will but it is essential to do so if you want to ensure that your wishes are carried out after your death.

Peace of mind and the avoidance of disputes

You give yourself peace of mind knowing that you have put your affairs in order. By making a Will you will spare your family and friends needless heartache and problems. No one wants arguments and disputes at a time when they are trying to cope with the loss of someone close to them.

Specific Bequests

You can specify exactly where you want your money and possessions to go. You can make special provisions for your immediate family, other relatives, friends and charities. You may want to give away items of sentimental value as well as those of monetary value. Only by making a Will with specific provisions can you be certain that a special item goes to the person whom you want to receive it.

Legal Guardian for children

If you have children under eighteen it is important to make provision for them in the event of your death. This is particularly important in the case of one-parent families or unmarried parents living together. A valid Will nominating legal guardians is invaluable. If you do not make a Will, no one knows what you wanted and the Court will decide the future of your children. The result may not be what you would have wished.

Tax

There are financial advantages of having a Will: you can in certain circumstances use a Will to minimise the amount of tax payable and your family will be spared unexpected legal bills.

Foreign Assets

Inheritance laws vary from country to country. It is essential that you make sure you have a Will in each country in which you have assets to deal with your property in accordance with local law.

What if I do not make a Will?

If you die without leaving a Will you are said to die *intestate* and the Law decides how your money and possessions should be divided. Although your next of kin will receive some of your estate, the situation is more complicated and problematic than people realise. Your assets may end up in the wrong hands.

- If you are married you may think your husband or wife will automatically get everything. In fact, this is only the case if your estate is under a certain value. Your children may have a right to part of your estate or, if you have no children then your parents, brothers and sisters who survive you may take a share.
- If you are living as a couple, but are not married, you may be treated as a single person and a surviving partner may get nothing.
- If you are a single person, you will want your estate divided in the proportions you wish amongst friends, relatives and charities of your choice. Even if you have no immediate family, it is still important to make a Will; Without a will, in certain circumstances your estate may simply pass to the Government and you will have had no say in where your money or possessions will go.

Does this apply to me?

You may feel that you have few assets, but you are probably worth more than you realise. In any case, it is still important for you to make it quite clear where you want your money and possessions to go, even if you feel you have not a lot to leave.

What about the Tax Man?

The ATO does not automatically receive a percentage of your estate. The good news is that in general terms property left to one spouse by the other is not taxable. There may, however, be Capital Gains Tax to pay on certain of your assets, subject to how your will might specify they are to be dealt with by the beneficiaries.

What information will we need?

Ideally work through this checklist before coming to talk to us (but otherwise just come).

1. **Property** – record your major assets and their approximate current value. Obvious examples include your home, any second or holiday home, your household contents, furniture, clothes, antiques, jewellery, your car, other items of value..
2. **Financial Assets** – e.g. bank and building society accounts, stocks, shares and investments, national savings, pension benefits, life assurance, premium bonds, unit trusts, business assets, any other financial interests.
3. **Any money you owe** – unless these debts will be paid off on your death (e.g. by an insurance policy), this includes any mortgage outstanding, other loans, overdrafts, hire purchase agreements, credit card debts, other money owed.
4. **Money you are owed** – record the name and address of any debtors together with the date of loan and amount outstanding.
5. **Your Executors** – note their full names and addresses. We normally recommend a family member or close friend together with a professional who can be objective and give guidance.
6. **Guardians** – if your children are under 18 years of age. Note their full names and addresses.
7. **Individuals and/or Charities** – make sure you know their full names and addresses of any person or body whom you want to benefit in your Will and what kind of gift you wish to make to each.
8. **Any Questions** which you want to ask us.

How do I specify what I want to leave?

There are different ways of making gifts. The three main ways of making gifts are as follows:

1. A gift of a specific item to an individual or an organisation.
2. A gift of a specific amount of money. Inflation can reduce the real value of your gift, you may wish to review this from time to time.
3. All the rest of your property, not already given away under the above. This is known as your "residuary estate".

What are the formalities?

When you have made your Will it will need to be properly signed by you and witnessed by two adults, who must be present with you at the time you sign the will. The witnesses must be people who have nothing to gain from the Will, such as beneficiaries or their relatives. We can arrange this.

When everything is complete we can look after your original Will in safe custody. We will give you a copy of the Will for your records with a note of where the original is kept.

When should I make a Will?

If you have not already made a Will the best time to do it is **NOW**.. It also makes sense to review your Will every few years, as your family circumstances may have changed and an updated Will makes sure your wishes are absolutely clear. We say more about this below.

Can I do it myself?

Yes, just as you can pull your own teeth out if you get a toothache. It is a good idea to enlist the help of a professionally qualified expert. It is very easy to make a mistake with a homemade Will, as there are certain strict legal formalities that must be complied with. A Will is an important document and it is worth taking a little trouble to get it right. We suggest you make an appointment to see us.

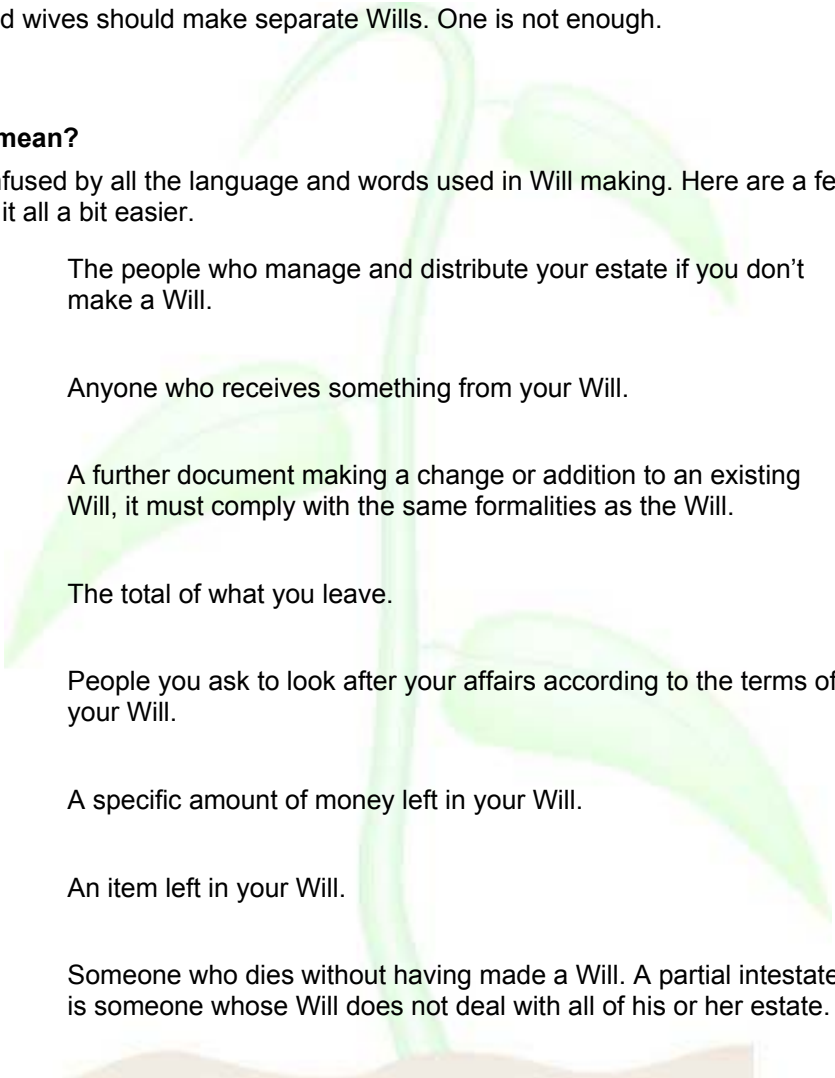
Nine points to remember

1. Making a Will is not tempting fate, and you will get a sense of satisfaction from having sorted out your affairs.
2. If you don't make a Will you could leave many problems for your family to sort out. Making a Will makes it clear that you cared enough to sort things out in advance.
3. Don't try to make a Will by yourself - get Gill & Lane to help.
4. Making a Will is not expensive, (the consequences of not making one costs a great deal more).
5. Think about what you want before seeing us (see the section above entitled "What we will need to know"). Keep your thinking broad, however.
6. Before you make a Will, ask the people you wish to appoint as Executors and Guardians if they will act on your behalf.

7. Keep your Will in a safe place and make sure someone knows where it is. Let us keep it safe for you free of charge. You will have a certified copy.
8. It is easy to change your mind and your Will.
9. Husbands and wives should make separate Wills. One is not enough.

What do the terms mean?

Many people are confused by all the language and words used in Will making. Here are a few definitions to make understanding it all a bit easier.



Administrators	The people who manage and distribute your estate if you don't make a Will.
Beneficiaries	Anyone who receives something from your Will.
Codicil	A further document making a change or addition to an existing Will, it must comply with the same formalities as the Will.
Estate	The total of what you leave.
Executors	People you ask to look after your affairs according to the terms of your Will.
Pecuniary Legacy	A specific amount of money left in your Will.
Specific Legacy	An item left in your Will.
Intestate	Someone who dies without having made a Will. A partial intestate is someone whose Will does not deal with all of his or her estate.
Probate	The official procedure whereby it is formally established whether you left a valid Will and who your executors will be and that they are authorised to sort out your affairs after you have died.
Residue	What is left of your estate after payment of debts, expenses and specific legacies etc.
Testator/Testatrix	You (man or woman), the person making the Will.

When should you think about changing your Will?

As a general rule you should review your Will every five to ten years. We suggest that you review your will when you are renewing your Driver's Licence. It may not need changing every time, but it is a good idea to look it over regularly. There are many reasons why you need to change your Will. For instance:

- **If you marry** – marriage revokes a Will unless the Will has been specifically made in anticipation of a particular marriage. You will also probably want to make a provision for your new spouse.
- **If you divorce** – divorce automatically cancels any bequest made to a former spouse, so if you do want an ex-spouse to benefit you must state this.
- **If you separate** – if you are separated from a spouse but not divorced he or she still has a legal claim on your estate, no matter how long you have been apart. If you are living with a new partner they may also have an entitlement. You should consider making specific provision for them.
- **The birth of a child or grandchild** - may mean that you want to change your Will to include a gift for them, or perhaps someone to whom you have made a gift dies. If you don't reallocate the gift, it will become part of your residuary estate, that is, what is left of the estate once all the specific gifts in the Will have been made. If one of your executors dies you will need to appoint someone else.
- **Changes in the value of your estate** – you may suddenly find that there is a significant change in your financial circumstances – you might, for example, have received an inheritance yourself. Equally, of course, you may perhaps have lost money on the Stock Market or through the drop in property values. You need to think about changing your Will to take account of this.
- **Cash legacies** – you should also bear in mind the effects on cash legacies. What you thought was a substantial gift may turn out to be worthless by the time of your death, if you have not reviewed your Will in the meantime. It could make sense to state a percentage rather than a fixed sum or make the legacy index linked. This means the value of the gift will be maintained.
- **Change of mind** – you are perfectly entitled to change your mind. You may decide that you would rather one particular friend receive a gift than another. You may wish to change the Guardians you have appointed for your children. There might be a charity not previously mentioned which you would like to benefit.

How to change your Will

The simplest way to change your Will is by making a Codicil but this is only suitable for relatively minor changes or additions. If, for example, you have bought a new set of golf clubs which you would like to leave to your grandson, you could use a codicil for this. A codicil is an instruction which is added to your existing Will and can change it in any way you wish. It is a legal document and must be signed and witnessed in the same way as your Will.

If you want to make more changes, we suggest you make a new Will.