

Mark Cook Solicitors

Making a Will



It is said that the only things certain in life are death and taxation.
A Will is a document designed to deal with both of these certainties.

These notes are not designed to be exhaustive on the subject of Wills, Tax and lifetime planning. They are written to give a general overview of the subject.

Benefits of a Will

A properly drawn up Will can, in most cases, avoid the intestacy rules and enable the testator to make decisions on the following:-

- Who will be appointed to wind up the estate and carry out the terms of the will - known as the executor (pronounced *eggs-eku-tor*)
- Who will be appointed as guardians of any minor children.
- Who will share the estate
- Directions as to the distribution of asset
- Setting up trusts to protect assets and provide for beneficiaries
- What happens if a beneficiary dies before the testator
- Giving other directions, such as funeral arrangements
- Tax affairs

CLIENT INFORMATION

What is a Will?

A Will is a written statement of intent, signed by you, which complies with certain formal requirements of the law. A Will only comes into effect after the testator (one who has a legally valid will) has died and therefore can be revoked or amended as necessary.

If a person dies with no Will, then the person dies 'intestate' (Dying without a legal will). In this case there are certain rules which govern how a person's estate will be divided.

These rules are complex and may not necessarily reflect your own wishes as to what should happen to your property in the event of your death. For example, your spouse does not automatically receive your whole estate.

What are, and who can be my executors and trustees?

Executors are appointed to deal with the practical steps of winding up and distributing an estate. They can be a family member, friend, a beneficiary in the Will, a professional adviser (a solicitor or accountant), a bank or trust corporation. The decision of who to use is personal and will depend on individual circumstances

Who can be a Guardian of my minor children?

Consideration should also be given as to who will have care of minor children who survive their parents. A suitable person can be a family member or friend. It is wise to consult the person first to ask their permission

What type of gifts can I leave?

There are several different types of gift:-

- *Specific Gifts*
These are gifts that can be distinguished from other property. Examples are items of jewelry or personal possessions.
- *Money gifts*
- *Gifts of Residue*

In all properly drafted Wills there should be a gift leaving the rest of the assets to certain beneficiaries.

What about funeral arrangements?

You can leave a direction as to your wishes. A choice of burial or cremation, or scattering of ashes are the usual requests.

Can I leave a personal letter with my Will?

Yes, some people wish to leave a personal note to family and friends that they wish to remain private.

What other steps should be taken during my lifetime?

Only property owned by the testator can be left in a Will. Generally, joint-owned bank property i.e. a jointly owned bank account passes on death to the survivor. Some life policies and pensions can be 'written in trust'. This avoids the asset passing to the estate of the deceased on death.

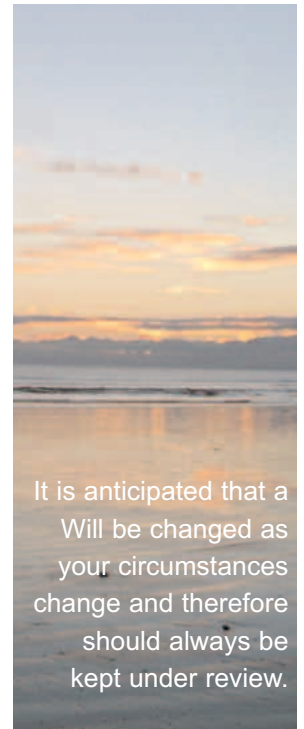
Sometimes it is necessary to separate assets into the sole names of two people. This maybe to gain inheritance advantages or to ensure that assets pass through the Will and not by survivorship.

What about Tax?

On death there are three taxes to consider. Income Tax, Capital Gains Tax and Inheritance Tax. It is part of the executor's role to attend to the tax affairs. Inheritance Tax is payable on estates where the cumulative total exceeds £300,000 (tax year 2007/08). Much can be done to reduce or even avoid Inheritance Tax with early estate planning.

If you require further information on inheritance, please contact our Offices.

[Call us or call in to arrange a free, no-obligation discussion and review of your individual circumstances](#)



It is anticipated that a Will be changed as your circumstances change and therefore should always be kept under review.

Expert legal advice on:

- Conveyancing
- Wills and Probate
- Commercial Property
- Inheritance Tax/Planning

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