



Wills: 15 things to think about

1 What exactly is a Will?

A Will is a legally binding written statement of your wishes and it only comes into effect when you die. It says who is to receive what from your Estate and on what terms. A Will is a technical document, and in particular there are very strict rules about how a Will must be signed and witnessed. If these rules are not followed, then the Will might be invalid. Above all else, avoid the trap of the DIY Will. We have the expertise to help you and we will make sure that your Will is prepared properly.

2 What is the Estate which I can leave in my Will?

Your Estate is anything you own in terms of your house (but not of course if you are simply renting it), possessions and cash savings or investments (including life assurances and rental properties) after payment of your debts (including any house mortgages), funeral expenses and taxes. We would encourage you to keep an assets log or schedule which you can periodically update, with valuations as appropriate.

3 How can I express in my Will exactly who is to receive what?

In your Will, you can leave legacies (a specific sum of money to an individual or Charity) or specific legacies (a specific item of your personal possessions such as jewellery to an individual) or residue (the sum total which is left over once any legacies and all debts, funeral costs and other expenses have been paid). The residue can be given in a single gift to an individual or Charity or the residue can be divided into whatever fractions you choose.

4 As an alternative to outright gifts in your Will of money or property, you might wish to establish a Trust.

A Trust can take many forms but in essence will postpone or limit someone's entitlement to the capital you are giving away. A Trust can be used to determine that a Beneficiary should not receive their entitlement until they attain a specified age, perhaps at 21 or 25 years old.

A Trust can also be used to give income to one person or for one particular purpose while at the same time preserving the capital for someone else or a different purpose. The Trust might even confer a power on the chosen Trustees to determine who from a number of individuals nominated by you will receive capital or income from your Estate, how much, when and on what terms. We can advise you on how to set up a Trust to achieve the ends you are aiming at, and we can fully advise you on the Inheritance Tax, Capital Gains Tax and income tax consequences.

5 Who loves you?

Or rather whom do you love and who is dependent on you. Whatever tax considerations there might be, and there is more of this later, the ultimate objective is to provide for those members of your family, close friends or favourite Charities in a sensible and proper manner.

6 Your spouse or partner may be your primary concern and in most cases you will want to leave them the whole or most of your Estate as an outright gift.

If your spouse or partner survives you, then you will probably be content to rely on them to provide for your children. This can be more difficult if there are children by a previous marriage or relationship, but we will be able to highlight possible solutions for you.

“Want to preserve the things you’ve worked hard to build?”



7 If you have a young child or children, then you will want to consider who will care for them if you and your spouse or partner should both be involved in an accident.

Your Will should appoint guardians – family members or very close friends, perhaps with a young family of their own, who your children are very familiar with and are comfortable being with and who your children will be able to go and live with. Your Will will need to establish a Trust Fund out of which income and capital can be applied to help the guardians with the additional costs of caring for your child or children, and possibly provide financial help with education and holidays etc.

8 You will need to appoint Executors/Trustees (you need not worry about this distinction) who will look after your Estate and see that your wishes are carried out.

You will need to choose (usually two) people who you trust implicitly and who will be able to work closely with any guardians you appoint. The Executors/Trustees can be people who are going to benefit from your Will.

9 If you are responsible for someone who is physically or mentally disabled.

You will need to consider how best to provide for them and to protect them and you will have to set this out in your Will. The device of a Trust mentioned earlier is frequently used here. We have the expertise and experience to offer possible solutions for you.

10 Your Will can include your wishes for your funeral.

11 If there are sentimental gifts you want to make.

These must be included in your Will or they might be overlooked.

12 What about tax?

- Inheritance Tax starts at £325,000 and any Estate you leave in excess of this will be taxed at 40%. There are additional tax allowances that will reduce this depending on what is in your Estate and who you are leaving it to. If you give money or property away within seven years of your death, then the aggregate value of those gifts which exceed £3,000 in any Tax Year, will be treated as part of your Estate for the purpose of calculating whether your Estate exceeds the tax threshold of £325,000. Any gifts to your spouse (or to your partner registered under the Civil Partnership Act 2004) or to a Charity during your lifetime (regardless of the seven year rule) or through your Will are totally exempt from Inheritance Tax and are disregarded in calculating the tax threshold. It could be a good idea to add up what your Estate might be worth, and then ask us for advice about Inheritance Tax and what can be done to avoid or reduce any potential liability.
- The tax threshold mentioned above of £325,000 is now transferable between spouses and Civil Partners and you should please ask for one of our Inheritance Tax Information leaflets which will explain this in more detail.

13 If you own and run a Company or if you have an interest in a partnership, then subject to provisions found in the Articles of Association or Partnership Deed, you may need to include suitable provisions in your Will for the continuation or disposal of the business. We can advise you fully on this. We shall also advise you on the availability of Inheritance Tax relief for certain business and agricultural property and assets.

14 Remember that a Will is quite inexpensive to have professionally drawn up by a Solicitor and it will save worry and heartache for those you leave behind. We can help you put your property and financial affairs in order and our fees are competitive and always quoted in advance with no hidden charges.

15 There are only two certainties in life – taxes and death; but making a Will never killed anybody.

Find out how Mander Hadley can help you

Although helpful, the brief information included in this document is intended as a guide only and does not constitute legal advice. For more detailed information regarding any of the matters raised in this guide, tailored to suit your specific circumstances, please contact a member of Mander Hadley's Wills, Probate and Older Client Services team.