



Wills

What is a Will?

A will is a legal document detailing how someone's possessions should be divided after their death. In other words, a will is a letter of wishes or directions for family and friends as to how to divide property after a person's death.

A will is a personal matter. It is a matter for every individual to decide for themselves to whom they should leave their property. There is no obligation for anyone to disclose the fact that they have made a will or indeed the contents of their will. It is up to every individual to decide whether or not they want to discuss the contents of the will with family members. It is, however, advisable to inform the executor of the whereabouts of the will.

Can a Will be changed?

A will can be changed or revoked at any time. A will can be changed and updated as often as you choose. It is recommended that a person regularly review their will.

Can I sell or dispose of my property after I have made my Will?

A will only takes effect after death. The fact that a person has made a will does not prevent them from dealing with property after the will is made, for example houses can still be sold and money in the bank can be spent.

Why should someone make a Will?

Almost everyone should make a will. There are many important reasons to make a will including:

- You decide what is to happen to your property after your death. If you do not make a Will, the law dictates that your property is distributed amongst your closest relatives.
- Many people like to make gifts of money or of particular items such as furniture, clothing, or personal belongings to friends or relatives. These can be included in your will, no matter how big or small.
- You can choose who is to carry out your wishes by appointing EXECUTORS. The executor is the person appointed to carry out the wishes of the person making the will. The law says that you only need to name one executor but it is advisable to appoint two executors.

- It makes it easier for friends and family if their loved one leaves a will.

What happens if someone dies without a Will or if a Will is deemed invalid?

- A person who dies without a will is said to have died 'intestate'.
- If someone dies intestate, it means the person's estate, or everything that they own, is distributed in accordance with the law by an administrator.
- In these cases, debts and expenses are firstly deducted, then the estate is distributed amongst the nearest next of kin. The following section details entitlements when a person dies intestate.
- A spouse but no children (or grandchildren): your spouse gets the entire estate.
- A spouse and children: your spouse gets two-thirds of your estate and the remaining one-third is divided equally among your children. If one of your children has died, that share goes to his/her children.
- Children, but no spouse: your estate is divided equally among your children (or their children).
- Parents, but no spouse or children: your estate is divided equally between your parents or given entirely to one parent if only one survives.
- Brothers and sisters only: your estate is shared equally among them, with the children of a deceased brother or sister taking his/her share.
- Nieces and nephews only: your estate is divided equally among those surviving.
- Other relatives only: your estate is divided equally between the nearest equal relationship.
- In the absence of a will and of any relatives the estate goes to the state – but this is a very rare occurrence.

Can a Will be challenged?

If the person making a will is married and excludes their spouse from the will the spouse is entitled to a 'legal right share', which means that a spouse cannot be disinherited. A spouse who has been excluded from a will is entitled to half the estate if there are no children. A spouse who has been excluded from a will is entitled to one-third of the estate if there are children. This share takes priority over all other provisions. Children, however, who have been excluded from a will do not have an automatic entitlement to the estate of their parents. There are a number of other situations where wills can be challenged.

When should a Will be made?

It is appropriate, very often, on reaching certain stages in life, such as the following:

- becoming the owner of property/cash
- getting married
- going abroad
- getting divorced or separated
- buying a house

- having children
- inheriting property (or winning the Lottery!)
- retiring, getting older or suffering illness
- NOW! As they say there is no time like the present to do things

For More Information

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