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Making a Will

No-one relishes the thought but death happens to us all. If you die without leaving a Will (intestate), it can make it more complicated to sort out what to do with your money, possessions and property. It can also be more time-consuming and emotionally difficult for those left behind.

At Mark Cook Solicitors, our Wills and Probate services can help make sure that your estate is divided up according to your wishes. And, our fixed price service means you can be confident you're getting value for money and that loved ones are not left with unexpected bills to pay.

We also offer advice on all related matters like tax affairs and estate planning. Call us on 0191 567 7244 to arrange a free no-obligation review of your individual circumstances.

This guidance sheet provides an insight into what you should consider when making a Will or dealing with Probate. Whilst not exhaustive, it should give you an overview of what's involved in order to help make the process as smooth and straightforward as possible.

WHAT IS A WILL?

A Will is a written statement of intent, signed by you (the 'testator'), regarding what happens to your 'estate' after you die. It must comply with certain formal requirements of the law and be formally witnessed. It is possible to do it yourself but it is easy to make mistakes and end up with document that is not legally valid. **If a person dies with no Will, then they die 'intestate'.** In this case there are certain rules that govern how their 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 instance, your spouse does not automatically receive your whole estate.

As personal circumstances can – and do – change, it is advisable to keep your Will under review so that you can update it and/or make any necessary amendments. Typical changes include divorce, death of a partner, re-marriage or the arrival of children, step-children or grandchildren. Any changes to your Will must also be formally witnessed.

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:

- * Appointing an executor to wind up the estate and carry out the terms of the Will
- * Appointing guardians of any minor children
- * Who will share the estate
- * Directions as to the distribution of assets
- * Setting up trusts to protect assets and provide for beneficiaries
- * Funeral arrangements
- * Tax affairs

Always keep your Will safe and in a place where those who will need it can find it.

Will: A legal document containing a statement of what someone wants to happen to his or her property after he/she dies.

Probate: An official copy of a Will that is legally certified as genuine and given to the executors.

PLANNING YOUR WILL

It can be a good idea to take a little time to think carefully about what you would like to include in your Will before you begin the process. Here are some things you might like to do prior to discussing the next steps.

- **STEP 1** Make a list of your assets and liabilities. Include everything you own along with any insurance policies, pensions and investments. Itemise any liabilities ie debts or outstanding payments.
- **STEP 2** Think about your beneficiaries. Who would you like to benefit from your estate? You may wish to leave specific gifts to individuals or charitable concerns.
- **STEP 3** Gather up relevant paperwork. Make sure you have all the paperwork you need regarding your finances and property.
- **STEP 4** Think about who you would like to be your executor

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

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FREQUENTLY ASKED QUESTIONS

Who can be a Guardian of my minor children?

Consideration should 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 types of gifts can I leave?

There are several different types of gift: *Money gifts*

Specific gifts – these are gifts that can be distinguished from other property, such as items of jewellery or personal possessions.

Gifts of Residue – 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 may be 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. Early estate planning can help you anticipate your tax obligations. For further information on inheritance, please contact our Offices.

For further information on Wills and Probate please call us on 0191 567 7244.
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What our clients say

"Thanks to Mark for making a stressful process easier to bear. Would definitely recommend to anyone and have already done so!" Mr W, Sunderland