

## Making a Will – Lastingpost.com

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### Introduction

There are a number of reasons why you should make a Will. Most importantly, if you don't leave a Will then the State will determine who inherits all your assets (collectively called your 'estate').

The other main reason is that the death of a person is always difficult and traumatic for their family. The situation can be made considerably easier if the deceased person leaves an up to date properly drafted Will detailing what they want to happen.

### Specific reasons for making a Will

1. You decide who benefits from your estate;
2. You make life much easier for your family as your affairs can be sorted out quickly and without confusion or fuss.
3. You may be able to minimise the effects of Inheritance Tax;
4. You ensure that your spouse is not deprived of your house;
5. If you aren't married or in a civil partnership, your partner will not automatically inherit;
6. You can ensure that provision is made for your funeral costs;
7. You appoint the person or persons who will deal with your assets after your death;
8. You appoint the guardians who will be responsible for looking after your children;
9. You decide the age at which your children receive money you leave for them;
10. You ensure that your assets are managed in a way that you want; and
11. You can leave legacies to specific organisations and charities.

### Problems that arise from dying intestate

If you die without leaving a Will then you are said to have died 'intestate.' In this situation your estate is subject to a set of statutory rules which effectively mean that all your assets pass to your Next of Kin in a fixed order.

This may be acceptable but in practice the rules are complicated and can be very restricting. The rules were drawn up in 1925 and do not take account of the changes

in the way that people now live their lives. For example, under the intestacy rules if you are not married then your partner will not receive anything.

## **Who can make a Will?**

A solicitor is not required to make a Will. You can draft your own and organise your own independent witnesses. However, the Will must be drafted correctly to be valid. The Probate Registry will refuse to accept a Will if it is in any way incorrectly prepared.

There are online Will writing services and self help books available if you want to draft your own Will. However, you should only consider using these if your affairs are very straight forward. Even then we suggest that you have a solicitor check the Will you have drawn up to ensure that it will have the effect you want. Mistakes are easy to make and sorting out misunderstandings and disputes may result in considerable legal costs after your death.

For this reason we suggest that everyone wanting to make a Will should think about taking professional advice. Your Will is an important document and there is considerable potential for problems to arise. The cost of the professional advice may well be a price worth paying for the resulting peace of mind.

## **When is it advisable to use a solicitor?**

If your affairs are in any way complicated then it is advisable to seek professional advice from a solicitor. We suggest that you should always use a solicitor in the following circumstances:

1. You own property with a person, who is not your spouse or civil partner,
2. There are family members, who may make a claim on the Will; for example, a previous spouse or children from a previous marriage,
3. You own all or part of a business,
4. You own overseas property,
5. You want to include a trust in your Will; for example, in order to make provision for your children or for a dependent unable to care for themselves, or
6. Your permanent home is not in the UK or you are not a British citizen.

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