

THE IMPORTANCE OF MAKING A WILL

Making a will can seem like a daunting task and it is very tempting to put it off for another day. There are numerous reasons given for not making a will, many based on incorrect assumptions, lack of understanding or thinking you do not have time.

It is advisable to have even a simple will in place irrespective of the size of your estate. It provides you with much greater flexibility and allows you to choose who will benefit from your assets on your death.

Dying without a will means your estate will be divided according to the Rules of Intestacy as set out in law. Your assets could be distributed to people who you do not want to inherit.

Advantages of a simple will.

1. You can choose your beneficiaries.

A main advantage of having a simple will is that it allows you to clearly set out how you wish your estate to be divided after your death. In the absence of a will the rules of intestacy would be strictly applied to your estate and your assets distributed irrespective of your circumstances or wishes. The beneficiaries you had wished to inherit from your estate may not receive anything while those you did not wish to inherit might receive a large proportion of your estate.

For example, you may wish your spouse to inherit everything but if you die without a will they would only be entitled to a proportion of your estate. The remainder would pass to your children if you have any (though that might not be appropriate if they are very young or vulnerable). If you did not have any children, the remainder of your estate would pass to remoter relatives – even if you had not kept in touch with them or did not have a good relationship with them. Others that are important to you, such as friends or charities, would not receive anything at all.

If you have a partner but are not married, a will is extremely important if you wish that partner to receive some or all of your estate. Many people wrongly assume that their entire estate will pass to their partner if they die without a will but unfortunately the rules of intestacy do not provide for this. If you are not married or in a civil partnership, then your partner has no automatic right to inherit a share of your estate, unless you have left a simple will. In some circumstances a cohabitant can make a claim but it is limited.

2. You can decide who should care for your children.

A simple will is the ideal place to name the guardians you wish to look after your children should you die.

3. You can appoint who will be responsible for looking after your estate.

A simple will allows you to appoint someone you trust to wind up your personal affairs after your death (your "executor"). Without a will one of your beneficiaries could apply for letters of administration to deal with the estate but there might be no one appropriate. Alternatively, your next of kin may have to apply to the sheriff court to be appointed as your executor and could be required to obtain an insurance policy before the court will appoint them. This can lead to delays and administration expenses.

4. You can leave details about your funeral arrangements.

A simple will can include specific instructions for your funeral, such as the type of service you would like; whether you wish to be buried or cremated; and a declaration specifying the person you wish to make those funeral arrangements.

5. You can carry out some inheritance tax planning.

Finally, making a simple will enables you to take steps to reduce the amount of inheritance tax which may be charged against your estate. For example, any assets left to a spouse or civil partner or charity pass free of inheritance tax but your estate would not benefit from this fully if some of it had to be distributed to non-exempt beneficiaries under the intestacy rules.

In conclusion, making a simple will gives you genuine control over the administration and distribution of your estate rather than leaving these matters to chance.

If you would like to discuss any of these points or have any other queries, do please contact Sue Senkbeil at Alison Fielden & Co. on 01285 653261.