

Making a Will & Other Related Matters

Making a Will is one of the most fundamental aspects of estate planning, yet many people do not appreciate its importance.

It is an essential means of ensuring that your assets are distributed in accordance with your wishes. You will thus be assured that you have made proper provision for all those you feel should benefit. And you choose the executors and trustees who will carry out your wishes.

It is also an opportunity to plan the distribution in a tax-efficient manner, particularly with regard to inheritance tax (IHT).

A Will can also appoint guardians of infant children, besides making appropriate financial provision for them.

The intestacy rules

In the absence of a Will, for a family with children, the intestacy rules provide for the surviving spouse (or civil partner):

- A statutory legacy of £270,000 (index linked)
- The personal chattels (whatever their value)
- One half of the residue of the estate outright

Any children are entitled to the other half of the residue in equal shares once they reach 18. If any children have already died, then their children will inherit in their parent's place.

If there are no children the surviving spouse receives the whole estate.

If there is no surviving spouse, the estate would be distributed amongst the children, or if there are no children, amongst the other relatives (there is a strict order of precedence). If there are no surviving relatives, the estate passes to the Crown!

Please note that different intestacy rules apply in Scotland - please contact us for further assistance.

Generation-skipping

If your children are sufficiently well provided for, you may consider providing for grandchildren, present and future.

This will ensure that property reaching the grandchildren will avoid at least one charge to IHT

that would otherwise have arisen on the death of their parent(s).

Discretionary Will Trust

To preserve flexibility, you may consider leaving the decisions to trustees nominated by you. They can take into account the circumstances following your death, and allocate property in a fair and tax-efficient way.

The trustees will usually be guided by a (non-binding) letter of wishes.

Safe-keeping and review

Your signed Will should be lodged safely so that it can be readily retrieved after your death. All those who need to know should be told where it is.

It will also assist your executors greatly if you produce a data sheet, a simple summary of your financial affairs (see below).

You should review the contents of your Will regularly, particularly following significant tax changes or changes in your personal or family circumstances. You should also update your financial data sheet, preferably once a year.

Insurance policies

It is important that the proceeds of life policies should be written in trust for the benefit of named relatives rather than form part of your own estate.

Contents of financial data sheet

- Location of Will and other personal documents
- Funeral and other wishes
- Details of executors, solicitor, accountant, bankers, etc.
- Tax reference
- Details of main assets
- Details of mortgages and lenders
- Details of other liabilities
- Pension/insurance arrangements

Updated 5 April 2023

- IHT history - gifts in the last seven years