



# Making a Will

## Taking control of your affairs

### Why do I need a Will?

Making a will allows you to decide how you want to distribute your assets; this could be property, bank accounts, trust funds or items of sentimental or financial value. If you die without leaving a Will (dying intestate), you may find that your assets are not distributed in the way you had wanted.

### A correctly written and legally valid Will:

- Ensures your estate is distributed as you wish
- Gives control of your assets to named executors
- Can reduce, or remove altogether, the burden of inheritance tax
- Can ensure inheritance tax reliefs for business and agricultural property are utilised
- Allows you to maximise reliefs on the structuring of lifetime gifts
- Can provide significant flexibility and protection
- Allows you to appoint suitable guardians for children and care arrangements for other dependents and pets
- Makes it easier to defend any challenges to the Will after your death

### When to make or review your Will

A Will sets out who will get your money, property and all your personal effects on your death, enables you to appoint legal guardians for any minor children and ensures that you choose who will deal with your affairs following your death. Not having a Will, or having an out of date Will, is likely to make the process of dealing with your

affairs more complicated and costly for the loved ones you have left behind.

### A Will is particularly important if you:

- Have children or other dependents
- Own a property
- Have an interest in a business
- Own assets in other countries
- Are getting married or entering into a civil partnership (existing Wills are automatically revoked on marriage or entering into a civil partnership)
- Are, or will be, married or in a civil partnership, especially if this is a second relationship and there are children from the prior relationship
- Have a long term partner but are not married
- Are getting divorced (parts of any previous Will may be revoked on divorce)
- Wish to benefit someone who is not a close family member or leave money to a charity of your choice

### Frequently asked questions

#### *I'm married but don't have a Will*

Your spouse or civil partner may not automatically inherit everything. The intestacy rules define how your estate is divided between your spouse and any other family (eg children, parents or siblings). These rules are intended to be fair, but they may not suit you.

### *I'm not married and don't have a Will*

Even if you have lived together for many years, the intestacy rules make no provision for a partner if you are not married or in a civil partnership. If you each expect to benefit from the other's estate, you should therefore take advice about Wills (and potentially co-habitation agreements).

### *I'm single and don't have a Will*

If you live alone and die intestate, the law determines where your assets go, which may be your children, parents, siblings or more remote family members, depending on your personal circumstances.

## **What do I need to think about before making a Will?**

### *1 – Work out what you have to leave*

You need to take into account your house, business, other property, savings and all your personal belongings, plus any death benefits due under pension or life policies (although these may not pass through your Will).

If your total estate is above the inheritance tax threshold, your estate may have to pay inheritance tax on your death.

We can advise you on ways to reduce your liability to inheritance tax.

### *2 – Choose an executor*

Every Will must have at least one executor. Your executors will collect together all the assets of the estate, deal with all the legal paperwork (including the completion and submission of inheritance tax forms) and pay all the debts of your estate, such as taxes, funeral and administration costs. Your executors will then distribute your estate in accordance with the terms of your Will.

### *3 – Decide who you want to leave your estate to*

Assets in joint names (such as houses or bank accounts) may automatically pass to the surviving joint owner. If this is not what you want to happen it is important to take advice on how to avoid this. Who else would you like to benefit from your estate?

### *4 – Choose guardians*

If you have children aged under 18, your Will should appoint guardians to be responsible for your children's upbringing if neither parent is alive.

## **Are trusts needed for flexibility and protection?**

Trusts can be an excellent way of providing ongoing asset protection. They can be particularly useful in the event of a second marriage or civil partnership, or where you have a vulnerable beneficiary you want to protect.

In certain circumstances, the law allows individuals close to the deceased person to make a claim against an estate if the Will fails to make "reasonable financial provision" for them. We can advise you on this and on how to take steps to protect your estate from such claims, which can be costly, time consuming and stressful for your chosen beneficiaries.

## **What if I want to change something?**

It is a good idea to review your Will regularly to take account of any changes in your circumstances and to make sure it still reflects your wishes. Changes that are needed can be easily achieved either through a Codicil or a new Will.

## **Working with DMH Stallard – you are in safe hands**

Our teams have the experience to guide you through the process of making a Will that reflects your wishes. We have the legal knowledge and experience to help you consider all eventualities and plan for the future. We work closely with clients to help them achieve their long term goals and priorities.

For the complete care and protection of families and their assets our private client team supports clients with sensitivity, precision and expertise.

### *Our services for business*

DMH Stallard delivers successful outcomes for businesses by providing tailored legal services with energy and creativity, backed by technical expertise.

## **Contact us**

For an informal discussion, or if you have any questions about how to make a Will or lasting power of attorney, please get in touch with our legal team.

Call us on 03333 231 580

e-mail us [enquiries@dmhstallard.com](mailto:enquiries@dmhstallard.com)

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