

# Why should I make a Will

**Some people are reluctant to make a Will, either because they do not like contemplating their own death or because they think it is something that they can put off until they are older. It is advisable for everyone to make a Will to avoid creating additional problems for our families when we die.**

If you do not make a Will then the Intestacy Rules will apply to your estate and they will govern both who will be in charge of administering your estate and who will inherit it. Your estate does not automatically pass to your surviving spouse or civil partner as there are complex rules which state how the estate will be divided between family members. There is no flexibility in the Intestacy Rules and this may therefore lead to people inheriting more or less than you would like them to.

## When should I make a Will?

### **If you get married or enter into a civil partnership**

If you made a Will before your marriage or civil partnership, it will be revoked by that marriage or civil partnership and will no longer be valid unless the Will states that it is made in contemplation of that marriage or civil partnership. Therefore you should normally make a new Will when you marry, remarry or enter into a civil partnership. Many people think that if they do not make a Will their spouse or civil partner will automatically receive everything that they own when they die. This is not always true.

### **If you are living with someone**

The Intestacy Rules make no provision for the survivor of an unmarried couple and, therefore, a Will is needed to provide for your partner. Otherwise, the only way for the surviving partner to benefit is to bring a court action under family provision legislation which can be a lengthy, expensive and uncertain process.

### **If you enter into a civil partnership or marriage**

Entering into a civil partnership or marriage automatically revokes a Will unless it is made in contemplation of that civil partnership or marriage.

Similarly, there are no provisions in the Intestacy Rules to pass assets to the survivor of a couple who are not civil partners or married. Even if you are civil partners or married the Intestacy Rules may not pass all your estate to the survivor. Consequently, you may need to make a new Will, or sign a codicil. You should seek specialist advice as to whether you need to make some provision for your ex to avoid any potential disputes after your death.

### **If you have children**

Whilst the Intestacy Rules may provide for your children, no account is taken of any special needs of individual children who may need greater provision than their brothers and sisters. Making a Will enables you to avoid restrictive statutory trusts and provide for your children in a more modern and flexible way. Additionally, appointing a Guardian for orphaned children under 18 years can be done through a Will. In addition certain inheritance tax allowances only work if the correct circumstances apply.

### **If you get divorced**

A new Will should be made when contemplating divorce or terminating a civil partnership. When a Decree Absolute of Divorce is made (or for a civil partnership the Conditional Order is made final) by the Court the former husband, wife or civil partner loses all rights on an Intestacy and also any right to benefit under any existing Will. Although this may seem right you should consider that:

- The particular wording or provision in an existing Will may not be adequate or may have unwelcome results;
- You may still feel that some items should go to your ex-partner or their family;
- Your children may now be your main beneficiaries and proper provision should be made for them; or
- Your Inheritance Tax allowances will alter.

### **If you retire**

As you get older and your finances change, you may wish to consider changing the ownership of your property, or the way you have bequeathed it, to avoid care home fees or inheritance tax.

### **If you want to leave money to charity or friends**

You can only make gifts on your death to friends, charities or other organisations you may wish to help, by making provision for them in your Will. They will not benefit at all if there is no Will.

## What happens when I have made a Will?

Once you have made a Will it is important to keep it under review - at least every 5 years. Circumstances, and the law, can change and impact on your Will. A Will should also be reviewed when any major changes in the family or in your finances occur, e.g. when children are born or upon your retirement, or perhaps if you inherit assets from someone else.

## Will I have to pay tax when I die?

It may be possible to arrange your affairs and prepare your Will so as to reduce the amount of tax payable when you die and thereby make greater provision

for your family. There are simple steps you can take to ensure your tax allowances are fully used, though sometimes more sophisticated steps might be advantageous. We can discuss these with you and help reach a decision which suits you and your family.

## What other planning do I need to consider?

It may be possible to incorporate an arrangement in your Will which will help protect your estate from inadvertently passing into the hands of the survivor's new spouse or civil partner; or to protect the house from being used for care home fees.

## Let us help you?

The law provides a set order of who is entitled to handle your affairs in the event that you have either not made a Will or where there are no surviving Executors under your Will. The persons entitled may not be the ones you would choose and there may be difficulties if a number of people are equally entitled to sort out your affairs, or where the people entitled to act are underage. The handling of your affairs may be held up whilst an administrator is found and appointed.

At Hunt & Coombs Solicitors we would be happy to act as Executors. We can bring an impartiality and independence which can be desirable.

*"I have always been given plenty of time, support when I needed it most, clear advice when needed, knowledge that I could contact you when I needed help. I'm really satisfied and comfortable with the help and service you have given me. Again Thanks."*

Client

*"Excellent service and at a very trying time. Professional, sound personal service and help. Thank you so much. Kind regards."*

Client

*"First Class!"*

Client

## Hunt & Coombs solicitors

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With impressive accreditations across numerous professional bodies and a transparent fees structure, our culture and standards make us the ideal place for you to come whenever you need legal advice or practical support.

The information contained in this leaflet gives you a summary of why you should make a Will. Please contact a member of the Wills, Trusts and Probate team on 01733 882800 or visit our website for more detailed information at [www.hcsolicitors.co.uk](http://www.hcsolicitors.co.uk).

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