

Why do you need a will?

If you care who receives your assets or who looks after your children after your death, then you should make a Will.

If you die intestate, that is, without a Will, then the law directs who inherits under the Intestacy Rules. Your partner, friends, relatives and favourite charities may not receive anything.

The intestacy rules do not recognise co-habitees, and so if you live with someone but are not married or in a Civil Partnership, then they will not receive anything from your estate that will pass automatically to your family. If you have children with your co-habitee, the children will receive something but your partner will not.

Even if you are married, if you die without a Will, your spouse may not inherit your whole estate. If you don't have children, then part of your estate may pass to other members of your family.

A simple Will is all that is needed to ensure that your partner or spouse and your children are provided for after your death, and for you to appoint guardians to look after your children.

Although it is possible to write a Will without a solicitor's help, this is often a false economy as there are various legal formalities that must be followed if the Will is to be valid. A Will drafted by a professional who is an expert in this area of law should not be too expensive and will give you the peace of mind that comes from knowing that your wishes will be put into effect without complication, at what is bound to be a difficult time for your family after your death.

Wills can also deal with more complex family circumstances. For example, a Will can give the spouse from a second marriage the right to stay in the family home for the rest of their life, while protecting all or part of the capital for children from a previous marriage.

A carefully drafted Will may also be able to protect part of the value of the family home from the claims of a Local Authority to fund residential care.

Wills can also be drafted to protect assets for future generations until they are mature enough to inherit, or to protect them from claims if they suffer matrimonial or financial difficulties.

Wills can be used to minimise the inheritance tax payable on your death. A Will can also specify who receives your business interests, such as shares in a family company or farm, in the most tax efficient manner.

If you would like to discuss any of the matters raised by this article, please contact:

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