



Your Guide to
Last Will and Testament

Adlington law
Private client specialists

Many people put off writing their Will with reasons such as : *'It's too expensive', 'I'm too young, I do not need a Will', 'I've got nothing worth leaving', 'my family know what I want, they will sort it' and the classic 'I don't want to write a Will because it's tempting fate'.*

This is the reason that approximately 70% of the UK population does not have a Will and if anything does happen to that 70% their Estate will be left to be dealt with under the rules of Intestacy and not as they would have wished. This can lead to upset, people you had wanted to inherit not doing and people you may perhaps have wanted to leave out of your Will, inheriting against your wishes. There is nothing your beneficiaries can do about it.

Also, a properly drafted Will can ensure that beneficiaries do not inherit until a specific time and can also help to avoid the cost of inheritance tax, which is something none of us want to be faced with.

Wills are not just for the elderly either. Younger people with children need Wills. None of us know what is around the corner. What if both parents of young children lost their lives in an accident? What will happen to your children? Who will look after them? What if there is a particular member of your family who you would want them to live with but another fights for custody who would have been inappropriate? You would have lost your say. Your Will can specifically identify who you would want to care for your children and could provide for that person financially to help them bring up your children the way you would have wanted.

A properly drafted will can spare your family and friends unnecessary work and upset at a time when they are least able to cope. It also reduces the possibility of making your Will invalid or contestable.

Writing your Will allows you to express your own wishes and allows you to decide who you want to deal with your affairs when you have gone. You can choose :

- Who your Executor is – you can have more than one or you can choose your Solicitor who will not stand to gain from your Will and can therefore ensure that your wishes are carried out.
- Who will be the guardian of your children
- What age will your beneficiaries be when they inherit your estate? Would you really want your children to potentially inherit all their money when they were 18 and risk the prospect of the money being spent within 12 months?
- If you have a beneficiary who may not be capable of handling their own affairs, you can write a trust into your Will to ensure that your chosen Trustees look after that beneficiary as per your wishes.
- If you have a disabled beneficiary it is far better to place inheritance into a trust than leave in one lump sum. You can provide for this.
- Is there anyone you would specifically wish to exclude from your Will?
- Do you have specific items that you would want to pass to one particular person?
- Do you have strong wishes for your funeral?

Your Will gives you the choice that you will not have if you die without it. It also gives you peace of mind that you have done all you can for your beneficiaries and it will hopefully go some way to easing their pain when you pass because they know you had sorted everything out for them. Without a Will in place, it could just lead to more heartache as the beneficiaries are subject to the laws of land and not to your wishes. A will can be altered or cancelled at any time, but we will advise on charges at the relevant time.





WHO WILL CARRY OUT MY WISHES WHEN I DIE

Executors are people who you wish to deal with your affairs when you pass away. Being an Executor does not prevent that person from also being a beneficiary of your estate. Husbands and wives or partners can appoint each other as first executors together with adult sons and daughters or professional people who can act as substitute executors in the event of both deaths.

WHY DO YOU NEED TO HAVE A SOLICITOR TO ADMINISTER YOUR ESTATE

You do not need a Solicitor to deal with your Will upon your death. However, a solicitor's knowledge and experience of the probate Registry's procedures can save family and friends having to undertake complicated legal work at a distressing time.

Adlington Law have a dedicated specialised department dealing with Wills and Probate.

Your estate will be dealt with quickly with the least amount of inconvenience to your beneficiaries.

You should consider the appointment of your Executors with care. The duties imposed by law on executors and trustees can be time consuming and can lead to personal liability.

POTENTIALLY, WHAT WILL HAPPEN IF I DO NOT CHOOSE TO MAKE A WILL

The following are just a few examples of situations that happen all the time:

Claire has 3 children from her first marriage to Keiran. Whilst married to Kieran, Claire made a Will leaving all of her Estate to Keiran and thereafter, to her 3 children who are all named in the Will. Claire and Keiran subsequently divorced in 1998. In 2001, Claire met James, with whom she has lived since 2002. The 3 children all live with Claire and James and have not seen their father since shortly after the divorce. Claire has never altered her Will and does not remember where it is although she has some recollection that Keiran looked after these during their marriage.

It is Claire's intention that if anything ever happened to her, her share of her property would pass to her children, but James would have the right to continue living in the house for the rest of his life.

James wishes his share of the property to also pass to the 3 children as he has no children of his own.

Claire and James have put off making Wills.

If Claire was to die and Keiran appeared and produced her Will, he would become entitled to everything she owns, despite her wishes as divorce does not invalidate a Will.

If Keiran never came forward and no Will could be located, then Claire would be classed as having died intestate. How Claire's estate is divided would then be left to the Law to decide and Claire's wishes would be ignored.

Equally, if James died without a Will, he would also be intestate. James' wishes would be ignored and his estate would fall to be distributed by Law between his family. Claire and the children would not benefit.

Michael has two sons. He has not seen his sons for 40 years despite numerous attempts to contact them. They have made it quite clear that they wish to have nothing to do with him and have told family they do not need him in their life.

For the last 7 years, Michael's two neighbours, Erica and Richard, have welcomed Michael into their lives. They have cared for him, helped him with general maintenance of his house, helped him with shopping and taking him to Dr's appointments and even bringing him into their home for meals and including him in Christmas celebrations. Their children often come to visit and play in his garden, keeping him company and when they go on holiday, Michael looks after their 2 dogs.

Michael has become very fond of Erica and Richard and has decided he wants them to inherit his estate when he passes away. If Michael were to pass away without visiting his Solicitor and making a Will, Michael's 2 sons would inherit his entire estate as he has no spouse. However, it is Michael's wish that his son's do not inherit. He feels completely let down by them and is of the opinion that if they do not want to know him after 40 years of him trying to be part of their lives, then they should not inherit from his Estate.

If Michael wants to ensure that his sons do not inherit, he will have to make a valid Will with a Solicitor and he will also need to ensure that a full letter of his wishes is included within the Will in case his sons utilise their legal right to challenge the Will.

Janice was in an abusive relationship for 30 years. Eventually, her husband Frank was jailed after a particularly violent attack which resulted in Janice being hospitalised.

Whilst in jail, Janice met Phil who showed her more kindness than she had ever known and she started a relationship with him and carried on this relationship for the next 10 years until Phil passed away, leaving his entire estate to Janice. They had an agreement that Janice would write a Will which would leave everything to Phil's daughter should anything happen to her as she had no children. However, Janice never got around to visiting the Solicitor and when she died 15 months later, all of her Estate, which now included all of Phil's Estate, was dealt with under the rules of intestacy. Frank inherited everything and Phil's daughter was left with no inheritance.

Molly has 3 children. Her 2 daughters are very close to her and do everything for her, to include helping her with bills and daily living.

Molly's son stole £60,000 from her and fraudulently entered credit agreements in her name leading her to have a poor credit record for which she had to re-mortgage her home to discharge.

Molly's Will currently leaves everything to be split equally between her 3 children but she wishes to change this and write her son out of the Will due to what he has done to her. She destroys her Will by throwing it into the fire.

Unfortunately, before she gets to her Solicitor to write a new Will, she passes away and due to the fact she burned her original Will, she has died intestate. Her son will now be entitled to a third of her Estate.

SO WHAT ARE YOUR OPTIONS?

You could do nothing and let the government decide what happens to your money, place your family's well being in their hands. However, I expect this will not be an option for you. The chances are definitely too high something will go wrong potentially leaving those you loved most with financial stress after you die. You could write your own will, true this is a cheaper alternative although if you do not know what you are doing you run the risk of your will being disregarded entirely and if your family wished to challenge it, they may find the legal fees are not worth the risk in doing so. Thankfully there is another option to protect your assets by getting a professionally written will to your exact circumstances by a fully qualified solicitors.

For a free consultation, please contact us on **01257 686386**.



- Other Services available:**
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 - Family Law
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