

Do I need a will?

A will is one of the most important documents you will sign. Dying without one leaves your estate intestate. Society has changed quite a bit since 1925 when the Intestacy rules came into effect - only providing for nearest relatives in order and, crucially, not for unmarried couples, stepchildren, friends or charities.

Example: John and Sarah Smith have two children, aged 19 and 18. Their estate is worth £1m comprising house (owned as joint tenants) valued at £600,000, savings of £500,000 (in separate names) and pensions of £200,000 (in separate names). If John dies, you would assume Sarah would inherit under intestacy. Wrong! Sarah inherits:

- Their house owned as *joint tenants* (NB if owned as *tenants in common* then this will pass under the residue below).
- Personal possessions.
- A legacy of £250,000.
- Residue – half – this would be £125,000.

The children inherit (at 18):

- Residue – the other half, therefore £125,000 and they will gain control of this at 18 years of age.

The problems? Sarah doesn't gain complete control of their joint estates nor of the amount passing to her children. Instead, the children inherit a large sum of money at 18 when they are likely to be financially immature. Pensions pass in accordance with nominations completed and if this hasn't been done, then the pension trustees decide who benefits – this *could* be Sarah but might equally be divided between her and the children. Sarah has no influence over this.

Furthermore, if John and Sarah weren't married, then John's estate completely bypasses Sarah and passes to the children at age 18.

Making a will is one way to set your wishes in stone and decide how you want your estate to pass on death. In the example above, John is most likely to want Sarah to have control of his estate so she has financial control at a time when she is likely to need it and to be able to control how the children benefit.

If you are single with no children, and no will, then your estate will pass to your closest blood relative – this could be parents, grandparents, aunts/uncles, cousins/second cousins or even the Crown. Often a genealogist is required to establish the correct beneficiaries which can be costly and delay the distribution of your estate.

Whilst you can make a will yourself, doing so without professional help may cause your family to suffer anxiety, disappointment and financial loss if, after your death, it transpires that your will is ambiguous or uncertain.

Good reasons for making a will:

Choosing your beneficiaries: Most of us have ideas about to whom we wish to leave sums of money, including friends, godchildren and charities. Despite the best of intentions, you can't rely on wishes being met accurately without the formality of a will.

Choosing executors/trustees: Another important decision to make is who should administer your estate (and deal with the paperwork) – you may turn to trusted friends or professionals. They will also manage the financial side for any minor beneficiaries. Under an intestacy, those who inherit will be administer your estate.

Appointing guardians: Appointing guardians to look after your children until they are 18 is an extremely important and personal decision. Without this, the decision is made by a court and could cause a dispute between families.

Providing for minors: Without a will minors inherit at 18, which is still young to handle the responsibility. With a will, you can specify a later age – say 21 or 25 – with trustees acting in a parental role in the finances whilst they are young.

Providing for children from other relationships: A will can be structured to provide for second marriages and children from different relationships.

Choosing funeral wishes: This can be of great help to your loved ones.

Choosing who will run your business affairs: A will allows you to nominate the right people to safeguard your business interests, especially if they are to provide an income to a surviving spouse. Your family may not wish to run your business and your business partners may not approve of their involvement.

Not married? If you are co-habiting but are unmarried you need a will to benefit your partner. You may also need to consider whether the survivor can afford to remain in the family home. Will inheritance tax become due? Is there a mortgage? Do you have sufficient life insurance?

Inheritance tax: The nil rate band provides £325,000 to pass tax-free, for everyone. Other reliefs may be available depending on certain criteria being met but as some of these aren't automatic, it is important to take legal advice.

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These notes are for general guidance only. The legal position may alter from time to time. You should seek advice on your individual circumstances before making any decisions. We cannot take responsibility for action solely based on these guidelines.