

The *Personal Questionnaire* that we ask new clients to complete asks "Have you made a Will?" and "Briefly indicate main provisions". It is important for us to at least have this basic information when advising clients on their financial planning.

Arch Financial Planning Limited does not prepare Wills for clients. We leave this to those who are qualified and experienced in the legal field. We do encourage clients, however, to make a valid Will and to update their Wills where their circumstances have changed.

Introduction

People think that the focus in making a Will is their own death, and that is not something that any of us like to dwell on. But **that is far from the truth.**

The focus in making a Will is **the long term security and happiness of those loved ones we must leave behind**, and those organisations that we care about, after our usually untimely and unexpected departure from this life.

We cannot soften the emotional hurt that those close to us will feel at such a time. However, **it is surely our duty to them** to make sure that such property and assets as we own, or have an interest in, are distributed amongst our loved ones, and the organisations we care about, **in such a way as to be of the most benefit.**

Why Write a Will?

Making a Will is **the only way you can be sure that your wishes will be followed** after you die. If you do not make a Will part, or all, of your estate may go to people whom you never intended to benefit.

Not only that, Inheritance Tax legislation means that, if you do not prepare properly, **a substantial part of what you leave behind may simply go to HM Revenue & Customs.**

Every person over the age of 18 should consider writing a Will. Leaving a valid Will is vitally important for those who are wealthy but **it is also important for someone of modest means.**

If you die without leaving a valid Will **the law will stipulate how your assets are to be distributed** amongst your surviving relatives. It is simply not true that all of your assets will pass to your spouse.

If the person with whom you share your life is not a marriage partner then **they are unlikely to get any of your estate** without a Will.

What is Intestacy?

Intestacy simply means **dying without having left a legally valid Will.** The emphasis on 'legally valid' is important because many people leave Wills which are of no use as they may, for example, not be correctly witnessed.

Most people **wrongly assume that all their possessions will automatically pass to their spouse**, or to other members of their immediate family. Unfortunately, this is not the case.

The law of intestacy means that **the State, in effect, writes a Will for you** (see the table at the end of this Guide). Your property and assets are distributed according to this law without thought for what your own wishes might have been.

On average, every day in the UK, over 1,311 people will die and a large percentage of them will leave their families with all the problems of intestacy.

The Department of Work and Pensions
www.direct.gov.uk

How much simpler it would be **to have your wishes written down in a form that is clear to everyone.** Why put your loved ones through the uncertainty and unnecessary extra difficulties they will face if you do not leave a valid Will?

What Else Can a Will Do?

People also wrongly assume that a Will is only about passing on property or other assets, but a Will can do much more than this. For example:

- If you have a young family you would surely like to **have a say in who may have to look after them.** You may have a brother or sister who has shown particularly skills in bringing up their own children. You could ask them if they would be prepared to look after your children if the unthinkable were to happen, and put that in your Will.

You will also need to consider what extra financial resources they might need to look after your children as well as their own (possibly a larger house?) **so that your children do not miss out on things that you had planned for them.**

If you do not do this the courts will have to appoint legal guardians to care for your children until they are age 18.

- If you have your own business you will want to think about **how you would like to pass on your business interests**. You could leave shares in the family company to a son or daughter who has started working in your business.
- You can also include specific funeral arrangements such as burial or cremation. You might also want to leave the use of your body to medical research. Whether you wish to think about these things now or not **it is better for your loved ones to know exactly what you wanted**. They will have enough to think about as it is.
- Personal items such as jewellery, paintings and heirlooms can be covered in a Will. Most people also have **special organisations that have been a big part of their lives** or otherwise hold fond memories for them. You can include such organisations in your Will. Charities can be particularly dependent upon such bequests.

What About 'Home Made' Wills?

So called 'home made' Wills can be disastrous. You may omit particularly important details, such as what you wish to happen to your estate if the main beneficiary of your will dies before you.

I am not sure if this is apocryphal but it is often said that solicitors make more money from **sorting out the mess made by home made Wills** than they do in fees for setting up valid Wills.

Setting up a Will

There are a number of approaches you can take where you wish to set up a Will. It is important to realise that **the Wills that most of us use are made up of a series of standard paragraphs which have legal precedent** and which are personalised for our requirements.

All of the approaches listed below will use some form of computer software which contains these standard paragraphs. At one level it depends on whether you feel more comfortable talking to a solicitor, a specialist Will writer or using such software yourself online with guidance from the system itself. However, **there are other important considerations that you should not overlook**.

➤ Using the services of a firm of solicitors

For most people a solicitor should be your first port of call when thinking of making or adjusting your Will.

If you already have a relationship with a solicitor whom you have found to be efficient and helpful then you need look no further.

Many solicitors now specialise in certain fields and not all solicitors will be interested in writing Wills. When using the services of any professional person **you should look for someone who regularly carries out the type of work you need doing** (in this case preparing your Will). What you don't want is someone who mainly spends their time on other work as he or she may not be up to speed on the most efficient way to set up your Will in the light of, for example, the latest Inheritance Tax changes.

The typical costs quoted by solicitors **would usually cover a 45 minute meeting** with them at their office. Where your requirements are more complicated and your meeting with the solicitor is likely to take longer than 45 minutes then costs will escalate and you should, in any case, obtain an estimate of costs before going ahead.

We would **particularly encourage you to use a solicitor** to prepare your Will in the following circumstances:

- if you are not a British citizen and your permanent home is not in the UK
- if you are in business as a sole trader or partner, or you own business assets
- if you own a farm, farm land or woodlands
- if you are separated from your spouse
- if you hold the power of appointment under a trust
- if you have an estate of several million pounds or more
- if you own or have an interest in property abroad

Solicitors are regulated when carrying out Will writing activities and so provide the highest level of security for yourself and the beneficiaries under your Will. However, solicitors are generally not pro-active so that you have to decide to 'instruct' them if you want to make a Will.

➤ Using the services of a Will writing company

Specialist Will writing companies have been instrumental in writing tens of thousands of Wills over the last two decades. Whilst they have their weaknesses **they have as an industry helped many people who would simply have never got round to making a Will** if it were left to them to get in touch with a solicitor.

Whilst a solicitor might be prepared to visit you at home, the costs would start to mount up, especially if you needed to discuss your situation at length. Specialist Will writing companies **would normally visit you at home, as their employees often work from their own homes**, and usually quote a fixed price for making Wills of various complexities rather than working on an hourly rate.

A good specialist Will writing company should be able to handle anything from simple to quite complex Wills.

If you do decide to use the services of a Will writing company **you should first check to see that they are members of a recognised trade body** such as the Society of Will Writers (www.thesocietyofwillwriters.co.uk) or Institute of Professional Will Writers (www.ipw.org.uk).

The problems that have occurred with some Will writing companies **include hidden charges and even inheritances being stolen**. Using a Will writing company that is a member of a recognised trade body should protect you to some extent from hidden charges.

Our advice in respect of inheritances being stolen is **never to use a Will writing company to handle probate**. That is never appoint a Will writing company, or a member of a Will writing company as an Executor of your Will. This should be reserved for members of your family or a solicitor.

➔ Using an online Will writing service

If you are comfortable with the internet and the cost of writing your Will is a major factor for you then you could use an online Will writing company.

The online service is, however, of no use if you need to discuss your requirements with a real person. Such services do usually offer a lot of written help at each stage of the Will writing process.

On our website we have a link to the online Will writing service of The Ten Minute Will Company (www.arch-fp.co.uk/making_a_will.php).

Once you have set up your Will via their website **you need to print it off and sign it in the presence of two witnesses**. In this respect please note the box to the right headed *This is very important*.

You can save your draft Will at any point in the process and come back to it another day. You only pay for your Will once you are happy with it and print it off. Your Will is then saved online and **you can go into the system and change your Will as often as you like** with no further cost.

If you are at all concerned about the completion of your Will online, or do not understand every aspect of the Will that you have produced in that way, you should stop the process before you print off the Will and incur a cost and you should then contact a solicitor.

It is important to note that Arch Financial Planning Limited can take no responsibility for any Will that you might set up with The Ten Minute Will Company. We simply include a link to their website to show you the kind of services that are available online should you wish to avail yourself of them.

THIS IS VERY IMPORTANT

To be valid, a Will must be signed by the person making the will in the presence of two witnesses; and signed by the two witnesses, in the presence of the person making the Will, after it has been signed.

A witness, or the married partner of a witness, cannot benefit from a Will. If a witness is a beneficiary (or the married partner or civil partner of a beneficiary), the Will is still valid but the beneficiary will not be able to inherit under the Will.

Intestacy Rules

Please see the next page for an outline of the intestacy rules as they apply in England and Wales.

Please note that this information does not constitute personal advice and should not be treated as a substitute for specific advice based on your circumstances. If you are in any doubt as to whether you should make a Will, or whether the Will you have may need updating, then you should discuss the matter with a solicitor or other suitably qualified legal adviser.

Any information given in this Guide relating to the intestacy legislation is based on our understanding of legislation and practice in force at the date of this Guide. Whilst we believe our interpretation of current law and practice to be correct in these areas, we cannot be responsible for the effects of any future legislation or any change in interpretation or treatment.

For personal advice

If you would like to discuss the implications of your Will in the context of your financial planning please ask your usual Arch adviser or contact us via one of the following:

Tel: **0845 3700 661**
or **01483 204600** (if local)
Email: enquiries@arch-fp.co.uk
Online: www.arch-fp.co.uk

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AUTHORISED AND REGULATED BY THE FINANCIAL SERVICES AUTHORITY
The Financial Services Authority does not regulate the making of Wills

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