

Our

10 Top Tips

to consider
when

Making a Will



eric 
robinson
solicitors

Making a Will

Making a Will offers peace of mind about the future.

It is the best way of ensuring that your money and possessions will be passed on to the right people, and that those you care about are looked after and protected as much as possible from heavy tax burdens.

Wills are formal legal documents. Detail is everything. So it is important to understand what making a Will means for you, and the sorts of issues you should think about.



01

What happens if I don't make a Will?

Not everybody makes a Will. Those who don't must accept that when they die, the Rules of Intestacy will apply. That means that the law will dictate how their possessions and other assets should be shared out.

Many people aren't comfortable with the very real risk that the important people in their lives could be left out. That's why Wills are usually the preferred option.

02

What roles do Executors and Trustees fulfill?

You have probably heard these terms before. But you might not know exactly what they mean, or why they are different to one another.

Let's start with the similarities. Executors and trustees are those you appoint in your Will to carry out your wishes once you have died. They are people you trust and have confidence in. They can be friends, family members or professionals including lawyers and accountants, and can themselves be beneficiaries of your Will. You are able to appoint the same people to act as your executors and trustees, but we advise to have more than one Executor in most circumstances, or at least a replacement.

The main difference between the two roles is that an executor puts your Will into effect, making sure that what you've said should be done is done. A trustee holds property on behalf of someone else, for example a child, until that person has reached a certain point in their life.



03

How can I protect my spouse?

A Will can help ensure that your husband or wife inherits your family home.

If you die “intestate” (without making a Will) and have children or other dependents, your spouse can only receive the first £322,000, plus personal possessions, of your estate outright. So, without a Will, your spouse may not even inherit the whole of your matrimonial home.

04

What happens to my Will if I get married or divorced?

Situations change. If your marriage has ended then you should consider whether and how to provide for your family in the future. You may decide that a Will drawn up during that marriage should be changed, for whatever reason.

If you go on to remarry then your existing Will no longer stands. It will have been revoked. So you should review your position and draw up new terms that protect the people you need to.

05

Will my estate be liable to pay Inheritance Tax?

Inheritance Tax is a levy on the estate of a person who has died. It's much maligned and often dreaded but it can be minimised through effective planning. Our team of specialists can give you sound Inheritance Tax advice and discuss points to consider when making your Will.

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06

Who will look after my children?

Think about appointing a guardian, someone you know and trust, for any child of yours who is under the age of 18 at the time of your death. This provision in your Will becomes even more important if your husband or wife has died or dies before you.



beneficiaries before a certain age as long as it is for their maintenance, education or benefit generally. So you may prefer someone to inherit at say 25 years but they can still have funds to assist them in the meantime, say at 18 years for university fees.

07

Can I leave money to children?

You may want to leave your estate to beneficiaries who are under the age of 18. Setting up a trust helps you achieve that. You can decide in your Will at what age you would like your dependents/younger beneficiaries to inherit. While the legal age is 18, some people think that's too young and they choose to specify a later age (say, 25). You can also specify in your Will that your trustees can release funds for your dependants/younger

08

How can I provide for someone who has lost mental capacity?

If you want or need to provide for someone who is not mentally competent to look after their own affairs, you should consider setting up a trust in your Will. It is quite common to create a discretionary trust which gives trustees a degree of flexibility in making payments to the person concerned or to the home or hospital where the person lives, or to their carer.



What is the position for unmarried couples and cohabitees?

The Rules of Intestacy are not kind to cohabiting or unmarried couples. If you die without having made a Will, your partner will need to go through a difficult process of proving their dependency on you. It's far better to provide for them in a Will; your intentions will be clearly understood and carried out, and the dependency test should not need to come into it.

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Can I protect my assets from certain claims?

Your spouse might choose to remarry after your death. The estate you left them could, in turn, be left to that new partner and/or new family. In fact, that often happens unintentionally when, unbeknown to your spouse, your Will is revoked by their new marriage.

One way of stopping that from happening is to create a Life Interest Trust. It means that your assets, including property and savings, will be held in trust. When you die, the trust will be passed onto those people you choose to be beneficiaries. It means you're not leaving things to chance.

These trusts are also a way of ring-fencing your assets, preventing them from being swallowed up by the cost of your care in later life.

For example, if you are in care and your partner is still living in your home, the house cannot be taken into account when assessing your means for Local Authority funding. If however, your partner dies while you are still in care and their share of the property automatically transfers to you, the Local Authority will be able to take the whole value of the property into account to assess your means.

A Lifetime use of Property Trust could help prevent this happening to you by ensuring that each partners' share is distributed according to their wishes.

Thanks for not just your professional support, but for your emotional support too.

My solicitor was very helpful. We believe our current wills accurately reflect our wishes, which is all one can wish for.

Professional and efficient.



Talk to one of our advisors to find out more:

02380 218000

wills@ericrobinson.co.uk

ericrobinson.co.uk



Contact Us

Southampton (Bitterne)

359 Bitterne Road
Southampton
SO18 1DN
02380 425000

Changers Ford

6-8 Brownhill Road
Changers Ford
Eastleigh SO53 2EA
02380 254676

Lymington

Heathcote House
37 St Thomas Street
Lymington SO41 9NE
01590 647670

Southampton (Hedge End)

Vanbrugh House
Grange Drive, Hedge End
Southampton SO30 2AF
02380 226891

Winchester

Regency House
2/4 Southgate Street
Winchester SO23 9EF
01962 790553

Richmond (London)

4 The Square
Richmond
Surrey TW9 1DZ
02031 467300