

Wills Briefing

Statistics show that more than half the population of Scotland has not made a Will. Some people do not believe they are wealthy enough, others think they are too young, and many people assume that their money and property will automatically pass on to the people they want it to go to. However, with increases in house prices meaning more estates may be liable to pay inheritance tax, evolving family structures and changing demographics, making a Will is more important than ever.

What if I don't have a Will?

If you do not leave a Will, your estate will be distributed according to the rules of intestate succession. It is not the case that your spouse/ civil partner will automatically receive your entire estate, although they do have certain rights. Children also have rights, and the rules may well dictate that other family members, often unexpectedly, will inherit.

Who should make a Will?

Everyone! Whether they are young or old, married or single. Co-habitants are in a particularly vulnerable position. New legislation to protect co-habitants' rights is, as yet, untested and making a Will can provide certainty.

There are key times in anyone's life when you should consider making a Will or updating your current Will. For example, if you are co-habiting with someone, getting married or entering into a civil partnership, moving home, buying or selling a second home or reviewing your investments, if there are new members of your family whether children, step-children or grandchildren, if you separate or get divorced or your family circumstances change.

Why make a Will?

- YOU decide what is to happen to your assets, rather than relying on the complex rules of intestacy.
- Leaving a Will takes away a lot of the uncertainty and stress for family members dealing with your estate. You can appoint someone trusted to be your executor.
- You can make sure that those you care about will be provided for – the intestacy rules do not take account of step families, children's spouses/civil partners or co-habitants, or wider family and friends, or more complex family circumstances.
- Even with the new transferable nil rate band for spouses/ civil partners, your estate may still be liable to pay inheritance tax. Tax planning can be incorporated into your Will to minimise any inheritance tax payable.
- Trusts can be incorporated into your Will to protect your assets, whether for tax planning purposes or for young children.

- Long term planning to protect your assets can be incorporated into your Will. For example, careful planning may reduce the likelihood of your home having to be sold to pay for residential care home fees.
- You can leave instructions for charitable legacies, gifting specific items e.g. family heirlooms, specifying your wishes for guardians of young children, what is to happen to your pets, any funeral instructions you wish to leave.

What if I already have a Will? How can I change it?

It is important to keep your Will up to date and we would encourage you to review your Will regularly and at least once every five years. If you already have a Will and would like to change it, minor changes (such as adding a new legacy or updating addresses) can be dealt with in a short 'codicil' with a new Will being drafted for more significant changes.

How to write your Will

Contact one of our experts for help with writing your Will. Everyone's family and financial circumstances are different and we will discuss your individual situation, the options available to you and how to make sure your wishes are carried out

Fees start from £250 + VAT for a single, straightforward Will, with packages available for couples making similar Wills and for clients also wishing to put in place powers of attorney.

If you require specific advice on the issues raised in this briefing or would like more general advice or further information on any of our services, please contact the person with whom you normally deal, or one of our Private Client partners - John Elliot, Callum Kennedy, Elaine Dick, David Campbell or Alison Attack.

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