

A photograph of two women smiling and talking. The woman on the left has long, wavy brown hair and is wearing a light blue shirt. The woman on the right has short brown hair and is wearing a white lace top. They are both looking towards each other and smiling.

# Wills & Estate Planning Guide

Many people don't make a Will because it never seems to be the right time. We all lead busy lives and making a Will might not seem like a priority, so we have made the process as simple as possible.

### There are three simple steps:

1. Decide what type of Will suits you and who you would like to leave money or property to.
2. We will arrange a meeting with you either at one of our offices or if necessary we can visit you at home.
3. We will prepare the Will for you to check and then make arrangements for you to sign.

Making a Will is not as time consuming as you may think...

## Contents

Choosing The Type Of Will	3
Things To Think About	4
Other Things To Think About	5
Did You Know?	6
A Case Study For Clients	7

## Three Types Of Wills...

There are 3 types of Wills for you to choose from...

### A Standard Will

You set out in your wishes as to the division of your estate when you die, and who you are appointing as Executors – they are the people responsible for dealing with your estate.

### Life Interest Will

These can be incredibly useful if there are children from previous relationships. If you want such children to benefit, but you also wish to ensure that your loved one is provided for, then such a Will should be explored further. For example, you can provide for your loved one to have a right to live in your property, but the underlying capital is "ringfenced" for your children. This is safer than passing your share of the property absolutely to your loved one, who may have different wishes as to who should benefit on their death. They could always rewrite their Will or get into financial difficulty.

### Flexible Wills

Upon death, assets in your sole name along with jointly held assets held as tenants in common fall into a trust. The Will itself does not actually express what should happen, instead it lists the potential class of beneficiaries.

Flexible Wills enable the trustees/executors to assess the situation at the date of your death from a tax and legal perspective, and also with regard to your family dynamics.

Trust is absolutely key because no beneficiary has an absolute right to benefit. It is up to the trustees to decide how your estate is administered and who benefits. You can write a letter to set out your wishes, and your trustees would be expected to do their best to follow it, but the letter is not legally binding, to give them flexibility, which is beneficial as circumstances can change over time.

Flexible Wills can provide a number of advantages, such as:

1. Protecting assets from falling to the Trustee in Bankruptcy in the event of one of the potential beneficiaries having a financial crisis at the time of your death.

2. If one of the beneficiaries at the time of death is under the influence of someone or suffering from an addiction, the trustees can exercise their discretion as to how they should benefit.
3. If one of your beneficiaries is receiving means tested benefits then the Trustees may consider how the beneficiary can benefit from your estate without compromising their position.
4. Tax laws regularly change and discretionary trust Wills enable your trustees to assess the situation at the time, to make the distributions according to your wishes in a tax advantageous manner.
5. On occasions it can provide protection for beneficiaries who are divorcing. The protection afforded may be limited as on occasions the Divorce Court could make alternative provisions. The protection afforded could be significantly diminished if one of the trustees is also the divorcing beneficiary.



## Things To Think About

Here are some things to think about when starting to prepare for your Will...

### Children

If you are responsible for young children, you can appoint Guardians in your Will. The appointments would normally only take effect after the death of any surviving parent.

If your children are to receive money or property under your Will, would you want them to inherit at the age of 18, or would you prefer the age of 21 or 25?

If you have children from a former relationship, your estate can be left to your spouse/partner during their lifetime and after their death, your children will inherit. You can control the ultimate destination of your estate in this way. If you simply pass your estate to your partner, your assets will pass under the terms of their Will or under the rules of intestacy which may mean that your children are disinherited. Rather than an outright gift you could grant a lifetime right of occupation in your home if you prefer.

### Gifts

You should think about who you would like to benefit from a gift or legacy. You can leave money or specific

assets to as many friends, relatives and charities as you like.

Gifts to charity are free of Inheritance Tax. You could even make financial provision for a person who has agreed to look after your pets.

### Household & Personal Possessions

You might want to list some personal items to be left to friends or family members. If you prefer, you can deal with specific items in a Letter of Wishes to be stored with your Will. The letter can be changed or updated as often as you like.

### Funeral Wishes

If you have any special wishes about burial or cremation these can be included in your Will or that information can be set out in a separate letter to be kept with your Will. Without a Will or letter your family might not know your wishes.



## Other Things To Think About

### Executors

Who would you like to be responsible for dealing with your estate? Couples or Civil Partners, often appoint each other as the sole Executor on the first death.

We recommend you name at least two executors to act on the second death. Many of our clients appoint a partner in this firm to act as one of their executors which can be beneficial, especially if there are difficult family relationships or complex business structures that would benefit from a professional person being involved right from the start.

### Charities

Do you want to leave legacies to any charities? Did you know that if you leave 10% of your estate to charity the IHT rate is reduced from 40% to 36%.

### Tax Planning & Asset Protection

Making a Will gives the opportunity to consider Inheritance Tax Planning. We can discuss with you how we can help save you tax. We can also help with concerns over care home fees and provide you with advice on how to protect your assets.

### Your Business or Farm

If you wish to leave your business or farm we can talk you through the best ways to structure your Will and any tax considerations that need to be taken into account.

## Did You Know?

### Without a Will

Without a Will, your estate will be distributed under the Intestacy Rules which may not give the outcome you expect. This is particularly difficult for unmarried couples with young children. Couples who are not married (or in a registered civil partnership) have no automatic right to share in the other person's estate. Married couples and registered civil partners may not inherit as much as you expect.

### Marriage

Marriage revokes a Will. If you intend to marry, you can make a Will in contemplation of marriage to avoid your Will being revoked; you should speak to one of our experts.

### Divorce

A divorce does not automatically revoke a Will. However, any appointment of a former spouse as an Executor and any gift to a former spouse would not take effect. A Will should therefore be reviewed following a divorce.

### Jointly Owned Assets

All assets that you own in your sole name will pass under your Will. Your share of assets held in joint names will pass to your co-owner (unless you own your property as Tenants in Common) irrespective of the terms of your Will.

### Second Families

A family Trust can help where there are children from an earlier relationship. We can make arrangements to ensure that your estate passes eventually to your own children

### Claims Against Your Estate

Under the Inheritance (Provision for Family and Dependents) Act 1975 it is possible for certain people to make a claim against your estate. We can advise you and take steps to reduce the chances of this sort of claim.

### Living Together

Couples who are unmarried and who are not in a registered civil partnership have no automatic inheritance rights. Without a Will your partner may have to apply to Court for a share of your estate.

### Step Children

Step-children and foster children have no automatic inheritance or property rights.

### Care Home Fees

Are you concerned about the impact care fees may have on your home? For joint home owners, we can help shelter a share of your home from care fees.



## A Case Study For Clients

### Without care fee will planning

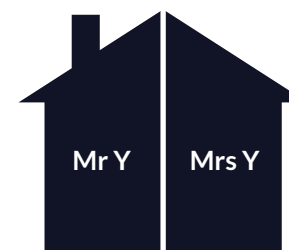


Mr & Mrs X own their home as Joint Tenants, so when Mr X dies the entire home passes to Mrs X.



Later in life Mrs X moves into care. The house is sold and the majority of the proceeds of sale are used to pay for her care fees

### With care fee will planning (a family home trust)



Mr and Mrs Y own their home as Tenants in Common. Mr Y dies and his half of the home passes under his Will to their children in trust. Mrs Y continues living in the home.



Later in life Mrs Y moves into care and the home is sold. Only Mrs Y's half share of the sale proceeds are used to pay for her care. The other half has been protected under Mr Y's Will.



38 Market Place  
Chippenham  
Wiltshire  
SN15 3HT

01249 478333

33 St John's Street  
Devizes  
Wiltshire  
SN10 1BW

01380 722311

7 Woodstock Court  
Blenheim Road  
Marlborough  
Wiltshire  
SN8 4AN

01672 518620

Stafford House  
57 High Street  
Royal Wootton Bassett  
Wiltshire  
SN4 7AQ

01793 853200

2 Gateway North  
Latham Road  
Swindon  
Wiltshire  
SN25 4DL

01793 384140