

Oury Clark Quick Guides:



Why Make a Will?



Private Client: K23

Straight → Talking Advice

If you want to make sure that your wishes are met after your death, it is vital to have a will. Without one, the law will dictate who inherits your assets and your family may end up paying more inheritance tax than they needed to.

To help those who are unsure about making a Will, we have set out in this guide a number of reasons why it's sensible to make one.

Choose who your estate goes to

Without a Will, the intestacy rules will apply (summarised below). It is often assumed that a spouse or civil partner would inherit everything in the absence of a Will. However, this is not always the case, particularly if you have children.

If you are in a long term relationship but are not married or in a civil partnership, your partner will not be entitled to receive anything under the intestacy rules.

Intestacy Rules

Your situation	What will happen to your estate if you die intestate?
Married / in civil partnership with children (birth / adopted, but not stepchildren)	Surviving spouse / civil partner receives: <ul style="list-style-type: none">• £322,000;• All your personal possessions; and• Half of remainder. Children receive: <ul style="list-style-type: none">• The other half of remainder when they reach 18.
Married / in civil partnership with no children	Spouse / civil partner inherits whole estate.

Your situation	What will happen to your estate if you die intestate?
You have children but are not married / in a civil partnership	Estate will be split equally between children. If any of your children predeceased you, their children (your grandchildren) would get their share. This is the case even if you have a long term partner but are not married.
Not married / in a civil partnership and have no children	Estate is inherited by your close relatives in the following order of priority: <ol style="list-style-type: none"> 1. Parents 2. Brothers and sisters (or their children if your brothers / sisters predeceased you) 3. Half brothers and half sisters 4. Grandparents 5. Aunts and uncles 6. Children of aunts and uncles (cousins) <p>If you have no surviving relatives, your estate would pass to the Crown.</p>

Minimise inheritance tax (IHT)

Everyone has an IHT nil rate band (currently £325,000), and assets falling within this band may be left free of IHT on death. In addition, gifts to particular people e.g. spouses and civil partners and gifts of certain types of assets e.g. business property and agricultural property, may qualify for IHT relief. Please see our inheritance tax quick guides for further information regarding these reliefs. By making a Will you can arrange the distribution of your estate to maximise the benefit of any applicable exemptions and reliefs.

Select your executors

Your executors are responsible for administering your estate. They may also

act as trustees if any trusts are set up in your Will. By making a Will you have the opportunity to select the most appropriate people to fulfil these tasks.

Please see our quick guide on estate administration for further details of what is involved when dealing with the administration of an estate.

Appoint guardians for your children

If you have children under 18 you can appoint guardians for them within your Will so that should you and their other parent both die whilst your children are still young, you will know who will look after them.

Decide when your children inherit

Under the intestacy rules, your children will receive their share of your estate when they reach 18. You may think that this is too young, and you can use your Will to defer the age at which your children are entitled to their inheritance. You could also specify different ages for receipt of income and capital, or provide that certain assets should be held on trust for the next generation.

Protect your estate

You can use trusts set up in your Will to protect your estate from potential claims in the event of a beneficiary's bankruptcy or divorce, or if he or she requires paid care. A trust may also be appropriate if you would like certain assets to pass down to particular people after the death of the initial beneficiary e.g. to ensure that your children ultimately inherit after the death of your spouse or civil partner.

Foreign Assets

If you own any foreign assets, you should consider having wills in each country in which you own assets. This will speed up the process of administering your estate.

Some countries such as Spain and France have forced heirship rules that dictate who must inherit assets located in those countries. If you are a British citizen, these forced heirship rules can sometimes be overridden provided that your foreign wills are drafted correctly.

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Disclaimer: This note does not contain a full statement of the law and it does not constitute legal advice. Please contact us if you have any questions about the information set out above.

Specify your funeral wishes

If you have particular wishes regarding your funeral these can be included within your Will, and this will ensure that your executors are aware of the same.

Review your Will

Once you have made a Will, be sure to review it regularly to take account of changes in your circumstances or in tax law. In particular, please note that a marriage or civil partnership can automatically revoke a Will (unless the Will was specifically drafted in contemplation of that marriage or civil partnership). Whilst a divorce will not revoke a Will, it will affect how your Will operates, and so it is important to review your Will in such circumstances.