

INFORMATION SHEET
What is a Will?



A Will is a written document that sets out what you would like to happen to your assets and wealth after you pass away.

Why make a Will?

There is no real downside to making a Will and its benefits are many, such as:

- Providing financial security for loved ones – without a Will, you have no say in how your wealth passes;
- Paying less inheritance tax – efficient tax planning is an important part of preparing a Will as it usually reduces or eliminates any tax, leaving more to pass to your loved ones;
- Appointing guardians for children – essential for a parent or guardian;
- Choosing your executors - the people who have authority to deal with everything for you;
- Avoiding inheritance disputes;
- Creating a life interest – for example, you could specify your home passes to children equally, but on the condition your spouse or partner has a right to remain there for life, thus ensuring he/she does not have to worry about re-housing;
- Specifying wishes for your funeral.

If you do not make a Will you will be considered to have died **'intestate'**. This means your assets will only pass to certain relatives based on a pre-determined order set out in law, known as the **'intestacy rules'**. This could have the effect of excluding those you would have otherwise chosen to benefit and favouring those you might have otherwise excluded.

If you pass away without a Will you lose the right to have your say and:

- your spouse or civil partner may not automatically inherit your entire estate;
- if you cohabit with a partner but are not married or in a civil partnership, they will not be entitled to inherit under the intestacy rules;
- without a named individual, there may be confusion or disagreement as to who deal with your affairs after death;
- the intestacy rules are not designed to be tax efficient so your estate may pay more inheritance tax than if you had made a Will;
- your family and loved ones are more likely to face delay or difficulty when trying to deal with your estate.

What if I already have a Will?

Whilst it is good to have a Will, having an out-of-date Will can be damaging. It is important to ensure your Will is reviewed from time-to-time as certain acts and life events may invalidate it:

- Writing a new Will revokes any previous Will;
- Marriage revokes an existing Will unless it has been made in anticipation of your marriage;
- Divorce will cancel any gifts to your former spouse and will prevent your former spouse from acting as an Executor under your Will;
- Specific gifts may fail if you set gifts out in detail but no longer own them.

Who should be your Executor?

An Executor is the person named in your Will who is authorised to manage your estate and responsible for ensuring your wishes are carried out after you pass away. Some of their duties include:

- Collecting in your assets;
- Paying all debts, such as funeral expenses, mortgages and credit cards;
- Filing necessary tax returns on behalf of the estate, including any income, capital gains and inheritance tax returns;
- Making an application to the Court to recognise their authority to manage the estate (referred to as a '**Grant of Representation**' and commonly known as '**Probate**').

An Executor's role is a very responsible one so it is important to appoint an adult you can trust and ideally two of them. This would often be close family members, but it could also be a professional, like Mullis & Peake, who will be able to deal with the technical aspects of the estate (such as the inheritance tax return).

The rest of your estate ('Residue')

Once all of your bills and liabilities are settled and specific gifts have been distributed, the rest of your estate, known as the residue, is then dealt with. You may leave the residue to one or more persons or organisations (such as a charity).

Beneficiaries

The people who you leave your wealth and personal possessions to are known as '**beneficiaries**'.

It is possible that your beneficiaries might die before you. It is therefore sensible to plan for such eventualities when preparing your Will to ensure that any gifts you make do not fail.

Inheritance Tax

This is a tax payable on your net wealth after you pass away. The inheritance tax-free threshold is currently £325,000*. If, after your debts and liabilities have been settled, your net wealth is over £325,000, you will have to pay inheritance tax at a rate of 40% for all wealth over the threshold.

There are ways to pass more or potentially all of your wealth free of inheritance. For example, gifts to a spouse or civil partner can be made completely free of inheritance tax. They can also share their inheritance tax-free allowance. This means that when the last surviving spouse or civil partner passes away, they may be able to pass up to £650,000* before inheritance needs to be paid.

If there is a family home which is left in the Will to children or grandchildren, the total amount that can be gifted tax-free could be up to £1m*.

Inheritance can be complicated and there are lots of rules and exceptions, so it is always worth seeking expert advice. It is possible to plan your Will in a tax efficient way to reduce or eliminate the amount of inheritance tax your estate will pay.

*correct as at the tax year 2023/24

What is a codicil?

A codicil is a document which updates, rather than replaces, a previous valid Will.

You can use a codicil to make minor changes, for example if you want to change the value of a gift left to a beneficiary.

Why choose Mullis & Peake?

At Mullis and Peake LLP, we offer friendly yet experienced and expert advice and support throughout the preparation of your Will.

As a firm of solicitors we are fully insured and regulated by the Solicitors' Regulation Authority. We also comply with the Law Society Lexcel professional standards and are ISO 9001 accredited. All of our Wills are drafted bespoke to you by skilled lawyers to comply with the law in England & Wales and help ensure they are valid and enforceable when the time comes.

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