

## Money

# Make a will or your loved ones will pay

**The guide** Failure to make the proper financial arrangements can cause great confusion and expense for those left behind, says Mark Atherton

Thirty million adults in the UK do not have a will. More worrying still, 75 per cent of people with dependent children have not made a will, nor have 80 per cent of couples living together without being married.

Yet those who die intestate can leave behind confusion and heartache because they have failed to make provision for their loved ones. For example, if both parents die at the same time, in a car crash or similar accident, custody of their children may not go to the person they intended if they have not made their wishes clear in a will.

In the same way, the surviving partner of a couple living together but not married or in a civil partnership is not automatically entitled to a share of the deceased person's estate. If there is no will to state otherwise, the estate will go to the closest relatives of the deceased or, failing that, to the Government.

Will Aid, a charity set up to promote will-writing, says that a big part of the

problem is that many people do not know the rules of intestacy and so do not fully appreciate the consequences of failing to make a will.

### Common misconceptions

A worrying 46 per cent of people wrongly believe that if they die without making a will their husband or wife or civil partner will inherit all their assets automatically. Similarly, almost 90 per cent of parents who are married or in civil partnerships are unaware that if they die without a will the surviving partner will inherit a maximum of £250,000 from the estate. Half the remainder of the estate would go directly to the children, while the surviving partner would receive a life interest in the other half, which would pass to the children on the surviving partner's death.

Six in ten people with dependent children do not realise that when a parent dies, care of the children does not automatically pass to the surviving

partner, while 70 per cent of individuals do not know that if someone dies intestate and his or her parents are still alive, the parents inherit the estate.

Iain McAndrew, chairman of Will Aid, says: "Ignorance most definitely will not be bliss for those left behind when someone dies intestate. People are not making wills because they don't believe they need to — and their lack of knowledge can end up costing individuals and families a small fortune."

### The benefits of making a will

"The principal advantage is peace of mind," says Guy Crowther, a solicitor at The Partnership, in Guildford, Surrey. "You get to choose precisely to whom you leave your assets, who your executors will be and what arrangements should be made for your funeral."

He says that those with dependent children should make clear and proper provision for them, which would include appointing guardians in the event of the parents' deaths. In the same way, he urges those who are living together but not married or in a civil partnership to make a will as a matter of urgency to ensure that they do not lose out as a result of a partner dying intestate.

Making a will also allows a parent who has entered a second marriage to make provision for adult children of a first marriage. Finally, a will can form part of an individual's tax planning. Mr Crowther says: "Parents can use a will to ringfence assets for children if they are the first of a couple to die. They can ensure, among other things, that not all the couple's assets get eaten up in care fees for the surviving spouse."

### Beware of the pitfalls

Care should be taken when selecting executors or guardians, says Mr Crowther. "In both cases you should consider the possibility that the individ-



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uals you appoint might pre-decease you, so you should be ready to name reserve appointees. In any event, you should review your will every three or four years."

You should also be ready to deal with changing circumstances. For example, Mr Crowther says, if you have two children you might plan your will around them, but what if another child arrives? Equally, if you re-marry you should make another will. He adds: "To begin with, any existing will would be revoked on your second marriage and it is important to make clear how you want your assets divided between your old family and your new family."

These are sensitive areas and one device that can be very useful is what is called a side letter to a will. Mr Crowther says: "A side letter is a letter contained within a will and handed over to the addressee when the will is read. It can be a useful way for the testator to explain any apparent anomaly or unexpected provision in the will. In the same way that marriage or re-marriage can provide a headache for writers of wills, so can separation or divorce. Mr Crowther says that it is advisable to write a new will as soon as you separate, so that you

do not, by an untimely death, end up handing over a large part of your estate to your estranged former partner. When a divorce is made permanent, a former spouse or civil partner is deemed to have died for the purposes of the will and so will not be a beneficiary.

**Making life easy for your executors** Being an executor of an estate can be a fairly onerous task, so it is important that people making a will notify their executors of their intention and check that the executors are happy to act. They should make sure that the executors know where the will is kept and who the other executors are.

Since being an executor can be a time-consuming task, it is a nice gesture to include a cash sum in the will for the benefit of the executors. They should keep addresses of any beneficiaries up to date, so there is no difficulty in contacting them. In the same way, names should be kept up to date to reflect any recent marriage or divorce.

Testators should keep their financial affairs as orderly as possible and let their executors know where all relevant financial documents can be found.

### Writing a will

This can be done at any solicitor's office. You can use a will writer or do it yourself. However, will writers who are not solicitors are not regulated as legal ser-

vices. A DIY will, meanwhile, could turn out to be invalid.

November is national will-writing month, during which 1,000 participating solicitors all over the UK will not charge for writing a basic will, but will instead hope for a donation towards the charities supported by Will Aid. The suggested donation is £75 for a single will and £110 for a pair of mirror wills. Will Aid solicitors can be found by phoning 0300 0300013 or by logging on at [www.willaid.org.uk/find](http://www.willaid.org.uk/find).

### Should you use a will-writing service?

The Legal Services Board, which oversees the regulation of lawyers in England and Wales, is examining whether will-writing should be brought under the regulatory umbrella because of consumer concerns about the way that some will writers operate. These include will writers who insist on appointing themselves executors of an estate and burying large fees in the small print of their contracts. Some consumers have reported that companies have taken their money but never delivered a will, while others have alleged that the will that was eventually produced was not worth the paper it was written on.

A spokesman for the Legal Services Board says: "We don't want to frighten people off making wills, but we do want them to be aware of the potential problems."



**A will can ensure that a couple's assets are not eaten up in care fees for the surviving spouse**