

THORNLEYS SOLICITORS

WILLS

QUESTIONS & ANSWERS

WHY SHOULD I MAKE A WILL?

If you care about who benefits from your property after your death and you want to avoid unnecessary distress to Family and Friends, you need a Will. If you don't make a Will, strict rules apply which determine how your assets are distributed - *someone else will decide who gets what*. Inheritance law doesn't automatically recognise live-in partners either. Even if you have lived together for many years, your partner may get nothing if you do not protect them by making a Will. A Donation to your Favourite Charity can only be made by a bequest in your Will. There are of course other issues which you should take into account and discuss with your Solicitor prior to making any decisions about the content of this very important document. Thornleys specialist Wills Team is here to help you. We can also advise you on financial and personal affairs in a friendly, straightforward manner, with your interests uppermost. Making a Will could also help prevent any dispute or claim against your Estate.

WHAT ARE THE BENEFITS TO MY FAMILY?

Making a Will means that **you** make the decisions about your property. It is possible to vary the amounts going to your relatives and your children; you can set conditions and decide who you want to manage the process for you. A dispute may also be avoided.

WHAT CAN I INCLUDE IN MY WILL?

The law in England and Wales is very flexible. In your Will you can include gifts, sentimental items or heirlooms; you can include gifts of money for children, grandchildren, old friends and charities; you can appoint guardians to look after infant children and leave money in trust for them until they are older. Without recording your wishes as to Guardians for your children, should there be any family disagreement, the Court or Social Services may have to decide who should take care of them. In your Will you can also include your wishes with regard to your funeral and even provide for the future care of your pets.

Your Will is only activated in the event of your death and can clearly set out your wishes so that your estate can be administered efficiently, which in turn avoids delays and family uncertainties.



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HOW MUCH WILL IT COST?

Thornleys charges for a basic Will, including secure storage of the original and provision of a copy for each party are:-

- Single Will - £192.00 including VAT
- Joint (e.g. Husband & Wife – Partner & Partner) - £264.00 including VAT

As you can see, the costs are relatively inexpensive when you consider the true value to your own peace of mind and the positive impact your decision will ultimately have. You may also consider the value of a Solicitor who is approachable and whose advice you feel you can trust and understand – *Thornleys are here to help you.*

WHY SHOULD I MAKE A WILL – I HAVEN'T GOT ANY MONEY?

Making a Will is more about your wishes than your wealth. It means that **you** make the decisions about what will go to whom, whether that is a financial gift or just simply of sentimental value. You may consider you have little to leave now but will that always be the case?

WHAT IS THE POINT OF A WILL, IF I DIE, WON'T MY FAMILY AUTOMATICALLY RECEIVE MY POSSESSIONS?

This is a common misconception. If you die without making a Will, current legislation (the laws of Intestacy which date back to before 1925!), has strict guidelines laid down as to how an estate is divided. As well as your surviving spouse, children and other relatives can claim against your estate. If you have a partner that you are not married to, they may well not be entitled to inherit anything. For example, if your home is not jointly owned, they could have problems staying in the property. Even if you are married, without a Will your husband or wife will not automatically inherit your possessions or indeed the house.

Some 60% of people in this country die without making a Will. Dying without a Will (Intestate), can cause legal complications for your family and friends which could simply have been avoided by making a Will.

WHAT HAPPENS UNDER THE INTESTACY RULES?

MARRIED – WITH CHILDREN

Your spouse gets everything up to £250,000 plus your personal possessions. (If your property is worth more than £250,000, your spouse could lose their home). Anything remaining is divided in two:

Half goes to your children when they are 18 years old. (You may feel that 18 is too young for children to inherit – you can stipulate an alternative in your Will).

Half goes into trust during your spouse's lifetime (he or she does not have access to the capital – only the income from the capital). On your spouse's death this half goes to your children.

Guardians may be appointed by the Courts or through Social Services if you should die before your Children reach age 18.

MARRIED – WITHOUT CHILDREN

If you have parents, brothers or sisters, nieces or nephews, your spouse gets everything up to £450,000 plus personal possessions. Anything remaining is divided:

Half goes to your spouse;

Half goes to your parents;

If no parent is living, then half goes to your brothers or sisters or their children.

UNMARRIED COUPLES

If you are unmarried, you cannot leave your property to your partner unless you make a Will. Your partner will have to go to court to apply for a share unless you have already made a Will or put your possessions in your joint names.

This is how your estate may be managed if you have not made a Will, or your existing Will does not distribute all of your property because it is out of date.

LIVING TOGETHER? – MAKE A WILL

If you have chosen to live together - “*make a Will*”. That is the message the Law Society and we at Thornleys are passing on to couples who live together without having entered into a marriage or civil partnership. Difficulties arise as in the eyes of the law their partnership is not recognised in the same way as those of couples who have been through a legal ceremony – particularly when it comes to dealing with a deceased partner’s belongings, (or ‘estate’) after their death. The law treats the deceased partner as a single person and there are no automatic rights to large parts of their estate by the surviving partner, as there would be if they were for example, husband and wife. In such cases, the complicated rules of Intestacy would apply and as previously explained the next of kin - their closest relative - would have total control. In extreme cases, they could actually and legally enforce the sale of the home shared by the couple.

It is a sad fact of life that we cannot all get along and family disputes can surface especially at such an emotive time, there can be instances where people try to get their own back on the surviving partner by cutting them off from estate proceeds. In certain circumstances, a claim on the estate can be made to the courts however proceedings are likely to be lengthy and distressing awaiting a final decision.

The message to couples living together, who wish to provide and protect their partner in the event of their death, is clear, see a Solicitor and *Make a Will*.

A Will is one of the most important personal documents you will ever complete. However, once made it should be referred to regularly to make sure the content reflects your current circumstances or if any of your wishes have changed. Any change in your personal circumstances should be discussed with your Solicitor to enquire if any of those changes would impact on the content of your Will.

INHERITANCE TAX

Inheritance Tax (IHT) advice may play a very important part in the making of your Will. If your estate is worth more than £325,000 (as at 6 April 2009), it is vital that you seek professional advice regarding tax planning. Many homeowners find that the value of their property alone takes their estate above the IHT limit and that their estate would be liable for tax after their death, unless they include tax planning in their Will.

WHAT IS INVOLVED IN MAKING A WILL?

Before you see your Solicitor, it is a good idea to think carefully about whom you would like to benefit after your death and to what extent, this will save time at your first meeting. You may care to make a list of all your proposed beneficiaries including their full names, addresses and ages, if they are minors and to include descriptions of any items you wish to leave and the amount of any money gifts you wish to make.

Your solicitor will ask who you wish to appoint as your Executors. These are the people who will administer your estate. Your Executors (who can also benefit under your Will), can be your spouse, children (provided they are over 18) any other relatives or trusted family friends or even your solicitors, the choice is yours however it is perhaps a good idea to choose someone of your own age or possibly younger. As an Executors duty is a responsible one, it is essential that you choose someone who is willing and able to carry out this important job and to consider if they would be able to cope with administering your estate in the event of your death. Make sure that they would actually be happy to act for you.

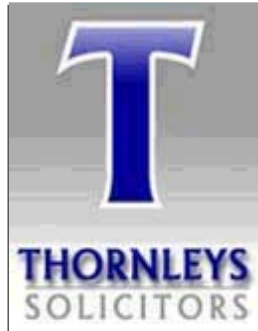
IN SUMMARY:

Before you see your Solicitor

- Decide who you would like to be your Executors
- Decide who you wish to be your main beneficiaries
- Decide what funeral arrangements you would like to be included
- Decide - if you have minor children - who will be their guardians
- Decide what money gifts you would like to make and to whom
- Decide what items/personal possessions you would like to leave and to whom
- Decide what will happen to a beneficiaries share if they should die before you
- Making a Will could help prevent a dispute over your Estate

After your first meeting, normally your solicitor will prepare a draft Will and send this draft copy to you for review. This will give you the opportunity to read through the document to make sure that the content accurately reflects your wishes. With your approval, the final Will would be prepared ready for your signature and another appointment made for you to meet again to sign the Will in the presence of two independent witnesses. Your Solicitor can provide safe storage of the original document and supply one copy to you for your own records.

A note of caution, it is dangerous to rely on an old or “home made” will. Speak to a member of our Wills Team at Thornleys who – without obligation - can advise on the importance of having your Will expertly prepared.



At Thornleys, we are committed to providing the best possible professional service to all of our clients, both business and personal. We have produced our Fact Sheets and Articles as part of this service but they are intended only as a guide to highlight general issues which may be of interest to our clients. They are not a substitute for professional advice. Specialist advice and assistance should be sought in relation to any particular needs or circumstances. Accordingly, no responsibility for loss, or consequential loss however occasioned, to any person acting or refraining from acting as a result of any material in this publication, can be accepted by Thornleys Solicitors Ltd howsoever caused.

Our Private Client Team at Thornleys have the specialist knowledge and expertise in various matters and would be pleased to discuss and advise you regarding specific needs.

ASSOCIATED FACT SHEETS AVAILABE:-

FACT SHEET 2 – Appointing Guardians in your Will

FACT SHEET 3 – Inheritance Tax

FACT SHEET 4 – Trusts including Discretionary Will Trusts

For further information or to arrange an initial Free Interview contact:-

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