

A brief outline of why you should make a will

Marianne McCarthy, Newelaw

If you do not have a will , the law divides your assets in an arbitrary way. We hear so often – it will not make any difference. Oh yes it does!

If there is no will:

- If you are married or in a civil partnership then all goes to your spouse or partner unless you leave children or one or both parents or any brother or sister or their children.
- If you leave any children, your spouse or partner receives your personal effects, (legally defined as chattels) £125,000 worth of assets plus one half the rest for life and then on the death of the survivor to any children and the other half immediately on the first death for the children with at least one other administrator in addition to your spouse or partner.
- If there are no children, the same rules apply so far as the survivor is concerned save that the survivor receives more than the basic £125,000, one half and the balance to parents brothers or sisters.
- Bearing in mind that assets include the house, life insurances, any business interest and anything else of value, this can place the survivor of a couple in a difficult position especially when you realise that children are entitled to the full use of the capital at 18.
- Any spouse or partner or other family member (will or no will) can apply to the Courts for better provision. That incurs expense and uncertainty for months or years and family tension.
- You may not have any control over who may look after any children under 18.
- Complications and distress can be caused to partners in second marriages and / or any children with the first spouse having formed a new relationship.

Marriage automatically cancels an existing will and divorce cancels any benefit to either party to the former marriage.

By making a will, you can ensure that your wishes are fulfilled as you wish.

Some advantages of making a will:

- You can make arrangements who should look after your business.
- If you have responsibilities for persons under 18, then you can direct who should look after them as guardians.
- You can put someone or more in charge as you wish for anything you wish , for example, a business interest.
- You can make any provision for where and on what terms your assets should go , eg restricting any of your beneficiaries access to money if , for any reason, they need protection due to illness , age or vulnerability.
- You can save tax and cost which can be payable due to the lack of a will.

On a related topic, you should think what could happen if you lose your mental faculties and how to ease the problems that might otherwise occur quite apart from the expense of court applications. The solution might be to create a power of attorney to make such arrangements as you wish rather than by a court.

This is only a brief summary and I shall be happy to discuss how we may be able to help.

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