

PENGILLYS

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Wills

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what matters most to you



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Your guide to Wills

A Will is a legal document which states what you want done with everything you own after you die and who you want to act as your **Executors**.

In making a Will, you can:

- appoint Guardians for your children
- place assets in Trust (**see our Guide to Trusts**) to protect vulnerable beneficiaries
- minimise the effect of taxation and protect assets for children from previous relationships or future re-marriage
- make a note of your wishes for the welfare of any pets and arrangements for your funeral

What are Executors?

Executors are the individuals responsible for the administration of your Estate. They collect in your assets, pay your debts and distribute what is left to your chosen beneficiaries. The Will gives them the powers they need to do this.

Your Executors are also your Trustees and the Will can give them additional powers to ensure your wishes are carried out. It is better to choose someone you trust who can also deal with the necessary paperwork. You can appoint one person to act as an Executor up to a maximum of four.

A family member or friend can be appointed, but you should have their agreement before appointing them. They can claim any expenses they incur from your Estate but cannot charge for the work done. They are able to instruct a solicitor to act on their behalf.

If you do not have family or friends you feel could act, you can appoint the Principals at Pengillys as your Executors. This may also be a good idea if you believe your Estate may be complicated, the contents of your Will may cause conflict within the family, or your Will provides for gifts which need to be managed before the beneficiary is entitled to receive them. Obviously we will charge for dealing with your Estate, our charges are based on the time spent dealing with the matter and an element based on the value of the Estate which reflects the importance of the matter and the responsibility of the firm. This element is between 1% and 1.5% of the gross value excluding any residence where the rate is 0.5%.

Things to consider when preparing a Will

Specific gifts

These are items such as jewellery, furniture, paintings, vehicles etc which you would like a certain individual to have.

Monetary gifts

Specific amounts of money you would like individuals or charities to receive.

Residuary Estate

This is what is left after the payment of all your debts, administrative and funeral expenses and any specific and monetary gifts. This ensures there is no gap in your giving. Any gap would have to be administered in accordance with the fixed intestacy rules and which may not be what you want.

For this reason it is also a good idea to appoint a substitute beneficiary for your residuary Estate should the first beneficiary predecease you.

What happens if you do not have a Will

A set of statutory rules are imposed, which effectively leaves everything to your family in a fixed order. These rules do not provide for unmarried partners, friends or charities. If you do not have any family your Estate will pass to the Crown.

These rules also apply to who can act in the administration of your Estate, which can cause complications, for example, if you are survived by a child under the age of 18, who cannot act themselves.

Additional facts you should know

Marriage

A Will is revoked on marriage, unless it is made in contemplation of a specific marriage.

Divorce

A Will is valid throughout divorce proceedings until the Decree Absolute is issued. At this point any reference to a previous spouse is revoked and the rest of the Will remains valid.

Dependant

If you do not make adequate provision in your Will for anyone who is dependant on you, they may apply to the court to make a claim against your Estate. We can explain in more detail about such claims and those that have the right to bring them.

Joint assets

Assets held jointly with someone else, will automatically pass to them on death irrespective of what is in your Will. We can advise how to change this so that the beneficiaries of your choice inherit.

Mirror Wills

Mirror Wills are Wills made on identical terms by a married couple, and can be altered at any time by either party. If it is important to ensure that does not happen you can add a clause which prevents this, known as **Mutual Wills**. The survivor cannot then change their Will although it can only apply to assets still owned at their death.

Will validity

Wills have to be signed in accordance with special rules to be valid. We can only accept responsibility for the validity of a Will if we have supervised its execution.

After you have made a Will

It is recommended that your Will is stored in our strong room for safe keeping, and that your Executors are made aware we have it. There is no charge for storage, only for retrieving documents from storage.

Wills should be kept under review as circumstances change for you, your Executors or beneficiaries and to account for any changes in external factors such as taxation.

Changing a Will

A Codicil is a document which allows you to make small changes to your Will, but has to be made in the same way as a Will.

We hope that this short guide has helped you in understanding more about making a Will. We would be pleased to meet with you to discuss any questions that you may have.

Please call us on 01305 768888

We will then put you in touch with a member of our experienced Private Clients team.

Please visit www.pengillys.co.uk where full details of our Private Clients team are available.

For further details about Pengillys and how we work, please refer to our Terms of Business and Privacy Policy which are available on our website or on request as printed documents.

Our Offices:

Weymouth

67 St Thomas Street
Weymouth
Dorset DT4 8HB

Dorchester

Challacombe House
Beechwood Square
Poundbury
Dorchester
Dorset DT1 3SS

We can also advise on:

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