

Will Guide

When there is a task to perform we try first to do it ourselves. Few of us would choose to spend money on legal fees if we did not have to, but where a will is concerned saving money by making a DIY will may be a false economy if you get it wrong. There are a number of issues to consider when you make your will.

Make effective gifts

Make effective gifts by working out what you have got. Many people have no idea about what they own or in what capacity and therefore do not know what they have to give away. If you jointly own a house find out if it is held as “tenants in common” or “joint tenants”. You must split joint property held as beneficial joint tenants to allow your share to pass according to your will. If joint property is held as beneficial joint tenants, when the first co-owner dies their share will go automatically to the survivor irrespective of what the will says. On the other hand if the joint property is expressed to be held as tenants in common, when the first co-owner dies their share in the property will pass according to the will.

Choose the right executor

One of the main reasons for making a will is to make sure your affairs are administered by persons of your choice. You will want to appoint executors that are trustworthy, good at managing, and will have the time and energy to do the work. Try to avoid appointing executors of a similar age as you because they may not be around when you die. When you wish to appoint more than one executor ask yourself if they are likely to work well together. The wrong choice of executor can lead to problems, including family disagreements. It would be wise to consider appointing a solicitor as your executor where your estate is complex and/or the beneficiaries may not be happy about the provisions in your will.

Gifts to beneficiaries

Clearly identify those who will benefit under the will. What and how much will they get? When giving away a sum of money ensure there will be enough money left to go around. When giving to a charity it is important to correctly name them. Gifts to minors must be carefully considered. Think about when and how minors should have access to their estate. Special care must be given when making gifts to beneficiaries with special needs. Is the disabled person ever likely to be in a position to manage their affairs? Would an outright gift deprive them of their entitlement to state benefit or support from social services?

Do not forget about tax and care fees!

Inheritance tax planning has become simpler with spouses and civil partners being able to transfer unused tax allowances to each other. The complex trusts that were used until recently by spouses and civil partners are no longer necessary to avoid tax. There are still some situations when trusts are useful. For example when there is a need to save on care

fees or to avoid family disputes. Consider placing property into a trust to preserve the family home for the children of the first marriage where the spouse has married again and wants the second spouse to be able to remain in the home after they die.

Signing the will

A will must fulfil necessary legal requirements to be valid. Many DIY wills fail because testators do not sign the will at all or in the right place. Often their signature is not properly witnessed by two independent witnesses present at the same time as the testator and as each other.

Stennett & Stennett Solicitors has over 25 years experience in preparing wills. Please call either Michael Stennett or Debbie Stimson on 020 8920 3190 for more information or why not pop in to our free advice clinic held on the first Wednesday in every month.