

# **MAKING A WILL**

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## **Part 2**

You cannot orally make a Will by simply informing another of your wishes. Wills must be in writing. However, a Will does not require the use of technical legal language although this may be necessary to ensure accuracy.

An Executor should be appointed in a Will whose function is to ensure the deceased's debts are dealt with and that property is distributed in accordance with the deceased's wishes. Where property is left to children under 18 or to people suffering from a mental disability, trustees should be appointed to ensure the inheritance is properly managed for their benefit. Children legally become adults at 18, but sometimes property left to them is designated by a Will to be managed by Trustees until they are 21 or older. A parent of young children who makes a Will may nominate another person/s to be the guardian/s of children on their death. Spouses may nominate a guardian/s to take care of the children should both spouses die before children reach adulthood. Before nominating an Executor, Trustee or Guardian, do check whether the person nominated would be willing to undertake such duties.

The phrasing of a Will must be precise and accurate. Many married couples when making a Will simply leave all of their property to each other or, if both should die, specify how property is to be divided between their children. Specific property or sums of money may be left to individuals. Property must be properly described to ensure it is readily identifiable and the person to whom it is left must be properly identified. First names, surnames and addresses should be specified to eliminate confusion.

To be valid, a Will must be signed by the person making the Will (the Testator) in the presence of two witnesses who must then sign as witnesses immediately after and in the presence of the Testator. Their addresses must be included in the Will so the validity of the Will can be confirmed if necessary. A witness or the spouse of a witness cannot be a beneficiary under a Will and any gift given to a witness is invalid.

It is wise to review a Will every few years. As a person's circumstances or tax laws change, a Will made some years earlier may no longer be appropriate. A new Will can be made and the previous one revoked, or, if changes are minor, a document called a codicil can be added. This must clearly state the new arrangements. The same rules apply to making and witnessing a codicil as apply to a Will.

I believe it is essential that anyone who has any major assets has their Will drawn up by their family solicitor. This ensures that all formalities are properly followed and all necessary issues discussed before the Will is signed. Issues relating to inheritance tax and the rights of spouses and children should be addressed. Professional advice may reduce the inheritance tax liability of surviving family members and the cost of administering your estate.

**The above article is by way of introductory information only.  
Every person's family circumstances and personal background  
differs and individual legal advice should be sought for guidance on  
individual family circumstances**