

Carers Information Sheet 22

Making a Will

When you are caring for someone who is ill or disabled it is important that you think about what will happen in the event of either your death or illness or that of your loved one.

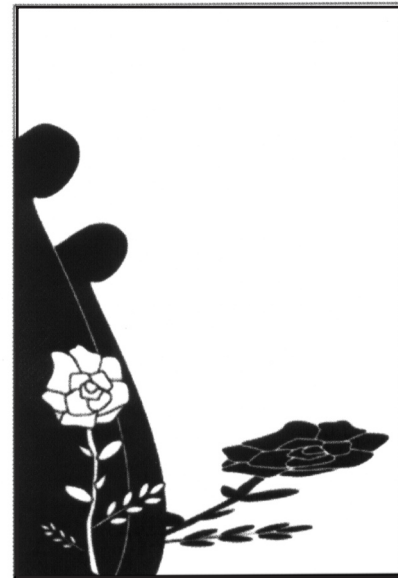
A will is a legal document which enables you to decide how your estate should be distributed in the event of your death. Even if you do not consider yourself to have very much to leave, the chances are that you have certain personal belongings which you would like particular people to have.

There are many reasons why it is a good idea to have a will and one of the main ones is that you can leave your family with full instructions on how to proceed.

Without a will your family will have to enlist the services of a legal professional who will assist in administering the estate in accordance with specific legal guidelines. They will not be able to decide what happens to your estate as it will be administered in accordance with strict rules and regulations known as 'Rules of Intestacy': It will **not** automatically be divided between members of your family. You will not be able to make sure that particular gifts are left to the right family members, friends or charities.

By making a will you can:

- instruct who should deal with your estate after you die. If you don't have a Will, a complete stranger could end up deciding what should be done with your money and possessions.
- decide who should get what and when. Most of us have specific people in mind who we would like our belongings to go to but without the safeguard of a will this may not be guaranteed.
- appoint legal guardians for your children who could otherwise end up in care until a decision is finalised.



- let everyone know what you would like in terms of funeral arrangements.
- protect those you love from having to deal with legal issues and decisions they would rather not have to contemplate at a time when they are also grieving.

MARRIED PEOPLE / PEOPLE IN CIVIL PARTNERSHIPS

If you are married, or in a formal civil partnership, and you do not have a will, the amount your spouse or civil partner can inherit is limited by the Government.

- If the estate is worth less than £125,000 your spouse or civil partner will receive everything.
- If there are children, then your spouse or civil partner will receive £125,000 plus personal chattels, and the rest of the estate is divided into two. The children receive one half and the other half is held on trust. The spouse, or civil partner, then receives income arising from that trust over his or her lifetime.

- If there are no children, then the spouse or civil partner is entitled to the first £200,000, plus personal chattels and the rest of the estate is divided into two. The parents (or brothers and sisters) of the deceased receive one half and the other half is held on trust. The spouse or civil partner then receives income arising from that trust over his or her lifetime.

INHERITANCE TAX is payable at 40% on the value of estates over £325,000 (2009/10 figures).

DIVORCED PEOPLE

If you are officially divorced, i.e. you have your Decree Absolute, then your will is executed as if you were a single person. If you are in the process of obtaining a divorce when you die and do not have a will to state otherwise, you will be classified as still married and therefore your will is executed as if you are still married.

LIVING TOGETHER

Common law wives and husbands do not have the same rights as a married person or someone in a civil partnership and if you do not have a will then your estate will be divided up as if you were a single person. In other words, if you are not married or in a civil partnership, they will get nothing unless you write them into your will. This also goes for couples of the same sex who live together without a formal civil partnership arrangement.

SINGLE PEOPLE

If you are single and die intestate (without a will), then there is a chain of people who will inherit. In the first instance everything will go to your children. If you have no living children, then it will be your grand children. If you have no grand children, then it will go to both your parents, if your parents are no longer alive, then it will go to your brothers and sisters, and if you have no living brothers and sisters, it will go to your nieces and nephews. If you have no nieces and nephews then it will go to your grandparents, then aunts and uncles and lastly cousins.

NO LIVING RELATIVES

If you have no family members whatsoever then your estate will go to the Crown.

HOW TO MAKE A WILL

- Make a list of everything you own and choose who you would like to pass things on to when you die.
- Decide on the kind of funeral you would like. These days there is a wide choice, and many things are allowed that would not have been possible a few years ago. For example, burials can now take place in specially designated woodland or other green areas, and there doesn't have to be a service in a church or crematorium.
- Choose the people who will make sure that the wishes stated in your Will are carried out - your Executors.

If you want to set up a Trust for a child with special needs, you need specialist advice. The Disability Law Service (a registered charity based in London) can give you free advice on the kind of arrangements that would best suit your wishes. They have a phone advice service during office hours on **020 7791 9800**. Email: advice@dls.org.uk. www.dls.org.uk

Or, if your child has a learning disability, you can obtain a free booklet from Mencap: 'Leaving Money by Will to People with Learning Disabilities'. As well as giving information on the various types of Trusts, this booklet explains how Mencap can assist after the parents' deaths. Contact Mencap Wills & Trusts Team on **020 7696 6925** or **Helpline 0808 808 1111**. www.mencap.org.uk

It is advisable to contact a solicitor to have the will drawn up, unless your affairs and wishes are very simple, in which case you can buy a will form and information pack from a stationer and write it yourself. Keep your will in a safe place and make sure that your Executors know where it is.

If you are considering making a donation to charity in your will, Carers Lewisham would be very grateful for any such bequest.



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