



There when you need us most

Let's Talk About Wills

Large Print 'Easy Read' Format

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Why do I need a will?

We at Naughtons understand that you work as hard as you do to build a life and provide for your family and loved ones. You take extra caution to protect your loved ones whether that be giving them your coat on cold day or holding their hand crossing the road. The fact is we take protecting you and your loved ones very seriously. However one day you will not be around to do that. That's why it's important that if you wish to guarantee that your property and possessions, that you have worked so hard for, is distributed in the way that you wish and to the right people.

Another reason to write a Will is to avoid Inheritance Tax and if you have children, it will allow you to appoint guardians who will be responsible for your children's upbringing if neither parent is alive. This means that you can appoint someone you trust to look after your children, as well as giving them the legal right to hold the children's inheritance in trust until such a time as they are considered legal adults and permitted to receive it.

There is a growing need for a will because we are living longer, an increasing number of people are likely to become physically or mentally dependent; there are expected to be a million people with dementia in the UK by 2025, but strokes, brain injuries and Parkinson's disease can also affect someone's ability to make their own decisions. Dealing with your financial affairs, health and care would be virtually impossible and without someone authorised to act on your behalf, relatives can face long delays, expense and distress if they have to go through the Court of Protection to be permitted to look after your financial and other affairs. Along with making a will, sorting out who can act for you if you can't yourself through an Legal Power of Attorney (LPA) is something your family will thank you for.

When do I need a will?

Even if you have an existing will it may require updating if any of the following applies to you:

- You have a partner, but you are unmarried. Intestacy laws do not provide for unmarried partners, so if you passed away without a will your partner would not receive any of your estate.
- You get married: however, marriage renders any previous will you may have invalid so you will need a new will.
- You have divorced your wife/husband and remarried which will require you to create a new will.
- You have children, or have had more children. Offspring are not automatically beneficiaries of a will even if the rest of your children are already included in the will. If you have a child, you should draft a will or redraft your existing will to ensure they benefit from your estate. If you are not around to care for your children your will should outline any provisions you have made for them in this event and whom would be their guardian if you passed away.
- You are elderly or terminally ill you should draft a will so your family benefit from your estate in a way you see fit. Intestacy laws will come in to play if you pass away without having drafted a will. It will also be far more difficult for your family to deal with your affairs after you are gone if you do not have a will and some people you would have desired to be provided for may not be.

Why should I choose Naughtons to make my will?

- Naughtons specialise in will and probate and have a vast experience in drafting wills and organising probate with a person centred approach. We ensure that all your wishes are included within your will.
- We have a flexible approach and as standard we offer all of our clients FREE home visits whether that be to your actual home or work place and at flexible times - evenings and weekends available on request.
- We also specialise in working closely with care providers and carry out regular visits to residential and nursing care homes throughout the UK offering FREE advice and impartial guidance on making a will.
- We offer a bi-lingual service taking into account people's different languages.

Common excuses for putting off writing a will

“It’s a depressing subject”

By taking responsibility and preparing for the inevitable, you can ensure that your loved ones will be spared a whole host of legal difficulties after you pass away – with a little forethought, you may be able to save them a great deal of stress and heartache for your loved ones.

“I’m too young”

No one can be certain of what's around the corner. That's why it's important to ensure that your assets are always protected.

“I don't have the time”

Naughtons can act very quickly to draft your will. In many circumstances we can draft the will on the same day as an express service. We will also work around your commitments and can offer FREE home visits including weekends and evenings.

“It’s too expensive”

Just plain wrong. Naughtons will charge you as little as £100 for a straightforward Will, and if you and your partner create identical Wills (mirror Wills) you are entitled to get the pair at a reduced rate.

What should I consider when writing a will?

At Naughtons we will take you through making your will step by step, ensuring that your wishes will be understood should the unthinkable happen. We also understand that circumstances may change and if you have an existing will, we can also advise you on reviewing and amending it.

The following are some considerations you should ask yourself before instructing Naughtons to draft your will.

What is the value of your estate, and what does it consist of?

If you would like advice regarding inheritance tax (including ways in which your future liability could be reduced) it is helpful if you have an idea of the nature and value of your estate.

What is inheritance tax?

Inheritance Tax may be payable by your estate on assets over £325,000, reducing the amount which will be passed to your beneficiaries. You might think this sounds like a large amount of money and that you couldn't possibly be affected, but with the majority of people now owning their own properties it is worth sitting down to work out what your estate would be worth if you were to die tomorrow. You need to take into account your house, furniture, car, savings and all your personal belongings, plus any death benefits under pension or life policies. There are some simple things that can be done during your lifetime and under your will to reduce or negate any Inheritance Tax liability. It may be worth consulting Naughtons Solicitors to find out other ways in which this tax can be avoided or reduced.

Who would you like to appoint as Executors/Trustees?

Your Executors are the people who will be responsible for administering your estate after your death. You can appoint a sole Executor, or as many as four. Some people like to appoint their Solicitor as Executor.

If you have children under the age of 18, who would you like to appoint as their guardian?

You can appoint as many guardians as you would like, and state which one of them you would like your child to live with. You can also use your will as a means of expressing your wishes regarding other aspects of your child's upbringing. If you are unmarried, separated or divorced, you will need further advice on this from your Solicitor.

Would you like to make any gifts of specific items?

Many of us have items of sentimental or monetary value - such as items of jewellery or photographs - which we would like to leave to the people we think will appreciate them most. If you do not make any specific gifts, all your belongings will fall into your residuary estate and may not end up passing to the person you would wish.

Would you like to make any pecuniary gifts?

These are gifts of money made to specific people. If you wish, the gift can be made subject to a condition, e.g. '...to my friend Lisa the sum of £3,000.00 providing she looks after my beloved cat Tom'.

Would you like to make any charitable gifts?

People often like to leave something to their favourite charities. Since all gifts to charity are exempt from inheritance tax this is a good way of saving tax as well as helping worthwhile causes.

Who would you like to leave your residuary estate to?

Your residuary estate is everything that is left after all tax, debts and specific legacies have been paid out.

At what age would you like any minor beneficiaries (children) to inherit?

Until minor beneficiaries reach the age you have specified, your Trustees will hold their share of your estate.

What degree of power or control would you want your Trustees to have?

Your Trustees powers are limited by law, and may be seen by some to be too restrictive. You can make provision in your will for their powers to be extended, which may make their job easier, and make it easier to provide for minor beneficiaries.

Who would you like to inherit if one of your beneficiaries dies before you?

If you make a gift to a child or other issue (i.e. to a grandchild or great-grandchild) and if that person dies before you do, the law states that their issue (i.e. their children, grandchildren or great-grandchildren) will receive that person's share in substitution, unless a contrary intention appears in your will. If there are no issue, then the share of the beneficiary who has died will be shared equally between any other residuary beneficiaries. You should however note that this only applies where the deceased beneficiary is your child or descendant. If you have made gifts to a parent and a child who are unrelated to you and if the parent dies before you, that person's gift will lapse and be divided between the residuary beneficiaries. The best thing to do to avoid all these pitfalls is to make clear your wishes in your will.

Are there any other family members for whom you have not make provision?

It is possible that your will could be contested by people for whom you have not made provision, such as a former spouse or child. We will be happy to advise on their chances of success, where appropriate.

Have you already made a will?

If you have an existing will which you wish to revise, we would strongly recommend that the original will is destroyed as soon as the new one is executed. This will help avoid confusion at a later date.

Inheritance Tax

From 6 April 2009 no tax is payable on estates up to £325,000. Estates over £325,000 attract tax at 40%. The nil rate band usually changes each year. Where assets have been given away within 7 years of the death those assets are added back into the estate. The amount of tax is reduced depending on the number of years which have passed between the gift and the date of death.

Frequently asked questions and answers

I don't really own anything except my house

People often forget they also own life assurance policies, savings, furniture, paintings, building society accounts and perhaps some shares. However, a will is not just about financial things, what about that treasured stamp collection? Or your pet dog and cat! A will can also provide a valuable opportunity to explain what your wishes will be for your burial or cremation.

Surely Wills are complicated and expensive?

No, as Naughtons ensures that you receive sensible and competent legal advice keeping the cost down and offering a value for money service.

Won't everything go to my nearest relative anyway?

Not necessarily. When a person dies without making a will the intestacy laws apply, and for example a wife may find she has to share the value of the matrimonial home with other relatives.

I'm not married and I don't like formalities, so I don't want to bother.

If you live with your partner and you are not married, it is absolutely essential that you think about what will happen when one of you dies. If you don't make a will, your partner may receive nothing at all or find themselves without a home.

I am worried as to who will look after my children if I die.

You can appoint a Testamentary Guardian who will be responsible for looking after your children. If you do not live with the children's other parent, it is particularly important that you take legal advice since the appointment of the Testamentary Guardian will be affected by any existing Court Orders or Parental Responsibility Agreement relating to the children.

I know it's important to make a will, so I'm going to buy a will pack from my local stationers and I shall make it myself.

You can of course prepare your own will but remember you must make sure it is signed exactly in accordance with the rules for the execution of a will otherwise it will not be valid. Remember that if your will is unclear or misses something out, you won't be around to explain what you intended. You also need to remember that if you have husband or wife or dependants (including an ex-husband or wife) and you leave them out of your will you may be risking a claim against your estate under the Inheritance (Provision for Dependents) Act.

I read somewhere that I need to appoint Executors but I don't want to impose on anyone. What can I do?

You will need to appoint an Executor in your will. Such a person can be a relative or a friend but it can also be one of the partners at Naughtons. We make a charge for acting as Executor but it can save a lot of worry to know there will be someone competent who can look after your affairs.

I like to deal with everything over the Internet. I would much rather fill in a form on-line and have the will emailed to me for signature at home. Do Naughtons operate this service?

There are firms of solicitors who provide this type of service but we are not comfortable with it. There are just too many possibilities to cover everything in the absence of a face to face interview and it would be all too easy to leave something out or to misunderstand or make false assumptions about your instructions. We are happy for you to email us your instructions and we can email you back with an estimate of the cost and any further queries. However, in order to finalise the terms of the Will, we really need to meet you and talk it through so we are happy to visit you at a time of your convenience.

I have a will already but I need to change it. I was thinking of writing the changes on the bottom and signing it again. Is that OK?

It is important to keep your will up to date. An out of date will could be worse than no will at all. Minor changes can be included in a Codicil but it must be correctly executed in exactly the same way as a new will. Often it may be better to start from scratch. In particular, you should always think about making a new will if you get married; if you start living with someone; if you have children or become responsible for someone else's children; if you separate or divorce; or following the death of your spouse or partner.

I'd like to make a will but I can't get about and I am waiting to go into hospital. Can it wait?

We really don't think you should leave it. On the contrary, if you are not feeling 100% it is only natural to be thinking about these matters. Naughtons are happy to come and visit you at home or in hospital. We can make as many visits as necessary. When it comes to signing the will we can bring members of our staff to act as witnesses so you do not need to disturb your neighbours or hospital staff.

I am happy with my will the way it is, but I am worried that it may get lost or that my relations won't know where to find it.

We are quite happy to store your will whether or not we have made it and we can always make enquiries both within our own wills system and with other solicitors if a missing will needs to be traced.

What is a 'Lasting Power of Attorney'

Losing the ability to make decisions for ourselves is a terrifying prospect and one that few of us want to contemplate, let alone discuss. In fact, planning for the future with a legal document called a Lasting Power of Attorney (LPA) could be one of the best ways to ensure your wishes are met.

A Lasting Power of Attorney gives someone you trust - usually a relative or friend - the power to act on your behalf if you aren't able to do so yourself due to mental or physical incapacity. Putting one in place puts you firmly in control of your affairs as you decide exactly how much authority your 'Attorney' would have and whether you want to impose any restrictions. There are safeguards to make sure that your wishes are carried out and the person acting on your behalf recognises the seriousness of their responsibility. LPAs were introduced in 2007 to replace the previous system of enduring powers of attorney (EPA) but EPAs created before October 2007 are still valid.

If you have any further questions or require any further assistance, please do not hesitate to contact us.