

Frequently asked Wills questions

Our Wills partner, BTWC, answers some of your questions on managing your estate. Several questions and answers appear in each issue of Air Mail, but here is the full list.

For more information on Wills and estate planning, please contact our legacy team on legacy@rafa.org.uk or call 0800 018 2361.

Why do I need to make a Will?

By leaving a will that states clearly who you would like to receive your property, money and possessions, you can prevent unnecessary distress at a difficult time for your loved ones. If you don't write a will, everything you own will be distributed according to the law of intestacy which may not be the way you might want.

A will makes it much easier for your family or friends to sort out your affairs when the time comes as without a will, the process can be more time consuming and often stressful. Writing a will is particularly important if you have children, family or other people who depend on you financially.

My pet is an important member of my family, can I make provisions in my Will?

Yes, you can leave a legacy of a pet to the person(s) you would like to nominate to take care of your animal in the event of you passing away. You can also give the person a specific pecuniary (cash) legacy on the condition of them taking care of your pet.

How long does the process take for my Will instructions to be captured?

A typical appointment to take your Will instructions usually takes an hour. If your affairs are a little complex, it may take slightly longer. Your completed Will documentation is usually made available to you within 21 days.

Do I need to make an appointment to visit an office during office hours to make my Will?

You can make your Will at your convenience. You may choose our online or telephone service. Alternatively you may choose to make an appointment for a professional adviser to visit you at your convenience at home.

I would like to leave a legacy to a vulnerable disabled individual – can I ensure their benefits are not affected?

When making your Will, incorporating a disabled discretionary trust ensures that the individual is supported by a trustee of your choosing to manage their inheritance. It also means that their benefit allowances are unaffected.

There is lots of talk of care fees, how can I ensure I retain control of my assets?

It's important to remember that an individual cannot deliberately deprive the state of assets that may be used to contribute to your care needs at your time of need. You may also choose to contribute to your care fees at a future point in time yourself. The use of instruments such as Property Trusts within your Will or Asset Protection Trusts can help you and your family to remain in control but professional advice should always be taken to ensure these solutions are suitable for your individual circumstances.

What is Probate?

If you are named in someone's Will as an Executor, you will more than likely need to apply for Probate. This is a legal document which gives you the authority to distribute the estate of the person who has died according to the instructions in the Will.

Do you need professional help and guidance to complete the Probate process?

Many executors and administrators act without professional assistance. However, if the estate is complicated it may be best to seek professional which will be for a fee. These professional fees can be paid from the estate.

I don't have much to leave behind, do I still need a Will?

If you have any personal possessions of any kind then you have something leave behind. Making a Will ensures your affairs are much easier to wind up by your loved ones when the time comes.

What is a Lasting Power of Attorney (LPA)?

While a Will determines what happens to your belongings when you pass away, you may need some help and support to manage your affairs whilst you are still alive. This may be on a temporary or permanent basis. Dealing with money and paperwork can be difficult if you become unable to do so due to ill health or other reason. Before that happens, appointing a person you trust to act as your attorney will ensure they can take care of your affairs should you need them to.

I wish to exclude someone from my Will – is that possible?

In theory you can include or exclude who you wish from your Will. However, the Dependents Act 1975 allows for certain individuals to contest a Will if they feel inadequate provision has been made for them. Any exclusions should clearly be stated in your Will and supported by a separate handwritten letter from yourself explaining the reasons for the exclusion.

Who can be an Executor?

You can nominate anyone over the age of 18 with full mental capacity who is not an undischarged bankrupt to be your executor. Remember, being an executor is a responsible and demanding role and can involve large sums of money. Ensure the people you choose are happy with the role. You can appoint professional executors or trustees who will charge you estate for the duties they carry out but this service may well buy your family peace of mind knowing that everything is conducted correctly.

Do I need to appoint Guardians?

Only if you have minor children (under the age of 18 years) will you need to appoint guardians. If you have a disabled children or grandchildren who are likely to require specialist care a trust arrangement can be created within your will to ensure your children's standard of living is maintained.

Can I make specific legacies?

If you wish to preserve family heirlooms, medals or items of sentimental value, you should leave these items as a specific legacy to a named beneficiary and record your relationship with them. When leaving a legacy to a charity, the registered charity number will be required.

I own my house jointly with my spouse, is this important?

How you own your property will determine how it passes on your death. As 'joint tenants' your share will pass to your surviving spouse automatically. If you wish to pass your interest in the property to your children to ensure they inherit in the future, you may wish to consider changing the way you own your property to 'tenants in common'. You can then create a trust within your will to determine what happens to the property whilst your spouse is still alive and after they pass away.

There's much talk about care fees at the moment, should I be worried?

We all know that the social care system is under pressure and that we should expect to have to contribute something to our future care should we need it, whether that's home help or residential care. Forward planning can help to ensure you and the people you nominate to support you via a trust arrangement can ensure you and your family remain in control of how your assets are apportioned and utilised in the future.

What about inheritance tax (IHT)?

A 40% inheritance tax rate applies to individual estates valued above £325,000. The surviving partner of a married couple or civil partnership has the potential to use a value of up to £650,000 IHT free but the correct arrangements must be in place to enable this. The government is proposing to introduce an additional Residence Nil Rate Band allowance from 2017 where a residence is closely inherited by lineal descendants i.e. children, grandchildren etc but the practical implications of these suggested changes is yet to be borne out.