

Why should parents make a Will?

Parents, and particularly new parents may not have considered the need to make a Will in the past as a lot of people assume that all their money and possessions will automatically pass to their partner, in the event of their death. Sometimes, however, this is not the case.

Who inherits if you don't have a Will...?

If you are married or in a civil partnership and you have children; your husband, wife or civil partner won't receive everything automatically, but they will obtain:

- personal items; for example household objects and cars, but nothing used for business purposes
- £250,000 free of tax (or the whole of the estate if it was less than £250,000)
- half of the rest of the estate in trust for their lifetime (which means that they will only be entitled to income (such as rent or interest) from the trust fund and not the trust fund itself) on his or her death the trust fund will pass to the children.

The other half of the rest of the estate will be shared by the children. This may result in more inheritance tax being payable than if a Will was made.

Single Parents...

If you are not married and have children and you have no Will, and one parent dies the estate will pass to the children in its entirety, potentially leaving the surviving parent with insufficient financial support and unnecessary inheritance tax being payable.

If you die without a Will and have children who inherit from the estate, those children will automatically inherit at the age of 18. Some parents may consider that this is too young for their children to inherit.

A lot of single parents believe that they don't need to make a Will because they make the assumption that everything they have would go to their children. However if you are only **separated** from your previous partner, not **divorced**, then depending on the circumstances your previous partner might inherit everything.

If you are divorced or unmarried and you do not write a Will, everything that is owned in your sole name will go to your children including any adopted children (but not step-children).

You should note, however, that often property owned jointly with someone else will pass automatically to the surviving owner. If you own property jointly with someone else you should find out whether or not this is likely to be the case.

What happens when you do have a Will...?

If you have a Will it will help create certainty in relation to your affairs on your death.

If you are parents and your children are still young (under 18) then you will be able to:

- ensure that both your partner and children are properly provided for, in the way you wish
- designate a guardian or guardians to look after them. You may for example, decide that a friend is better placed to look after your children than a family member. If you do not designate a guardian, a decision as to how and by whom your children are to be cared for may rest with the court and may not be the person you would have chosen.
- decide who will look after your money for your children, while they are too young to deal with it themselves, by nominating trustees to do so in your Will.
- have the flexibility to choose an age you want your children to inherit your money, although once they are over 18 there may be tax consequences if money continues to be held in trust and you may need specialist advice on this issue
- plan for more than one situation, you will be able to decide what happens in the event that a guardian, trustee or beneficiary dies before you.
- have the opportunity to state the terms upon which your children and other beneficiaries are to inherit your estate.

These are just a few reasons why everyone and certainly every parent should have their own Will, whatever their situation and it allows you to be in charge and to decide what happens rather than the decisions being made for you. If you do not write a Will, your estates will pass according to the set rules; which given the choice, would probably not be what you would want and may not be in your family's best interest.

For further information or advice, please contact Outi Hubbard (oh@hpwsolicitors.co.uk or 020 8735 9771) or Sarah Willcox (sw@hpwsolicitors.co.uk or 020 8735 9772) at Hubbard Pegman & Whitney LLP