



**TALBOTS SOLICITORS**

**Why make a Will ?**

## WHY YOU SHOULD MAKE A WILL

It is a remarkable fact that only three in every ten people in this country have bothered to make a Will. The remaining seven will have no control over what happens to their hard earned possessions as these will be divided up amongst remaining family or relatives, or may even go to the Crown.

If you do not have a Will you may be familiar with many of the usual reasons people give for not having one. Death seems so far away; you are always too busy to think things through; accidents only happen to other people; it is too complicated; solicitors are expensive, and so on. You may not think you are rich enough to have a Will. Yet you are probably far wealthier than you realise and once you add up the value of your house, car, savings and possessions, as well as any investments including Life Policies you may have taken out, you will realise the true value of your 'estate'.

## WHAT HAPPENS IF YOU DON'T MAKE A WILL

If you die without having made a Will ('intestate'), the law dictates which surviving members of your family will be entitled to which part or parts of your estate. What each family member receives is determined by strict rules laid down by Parliament, and takes no account of your wishes or the circumstances of your dependants or family.

**If you are married, you could be mistaken if you believe that everything you own will automatically pass to your wife or husband.** This is not necessarily what will happen. People whom you actually dislike, or have never even met, may benefit from your death.

In the absence of an Executor appointed by Will, an administrator has to be found to sort out your affairs. This person may require considerable help and guidance from a professional, such as a solicitor experienced in probate.

The delay in appointing an administrator is likely to mean that there is a delay in your family benefiting from the distribution of your possessions, adding an unnecessary burden at what is already a time of great emotional stress.

Even if you have a Will, it will be invalid if any of the legal formalities were overlooked when the Will was signed. Your estate would then be distributed as if you had died intestate.

## **MAKING YOUR WILL**

Making even a simple Will requires a fair amount of thought, so choose a time when you are free from pressure or anxiety and are in a relaxed and clear frame of mind so that you can decide who will benefit from your estate. You will probably want to talk things through with your spouse, if you have one, or a close friend. By talking things through with us at Talbots we can help you to clarify your intentions and we can discuss with you how best to achieve your wishes

You can leave your property and possessions to anyone or any organisations, such as a charity, subject to any legal claim your spouse and other dependants may have. You can leave selected items (Jewellery, pieces of furniture, antiques, paintings, collections of books etc.) to particular relatives, friends or charities. You may have certain family heirlooms which may not be worth much financially but are of great sentimental value and which you wish to ensure are passed to family members of your own choosing.

There are a number of specific aspects you will need to consider and decide upon in the course of making your Will. These are some of the important ones.

**EXECUTORS** are the people you appoint to be in charge of your affairs and who will see that your wishes are carried out. An Executor should be someone you can trust, such as a close relative, a friend, or someone independent such as your solicitor. You may appoint up to four Executors and in certain circumstances you will need to appoint at least two. There is no problem if the Executors stand to benefit from your estate.

**GUARDIANS** are the people who will take over the responsibility and control of your children until they are 18 years of age if the other parent does not survive you. Once appointed, they are the legal guardians of your children and will be responsible for their upbringing.

**TRUSTS** may be set up to ensure that beneficiaries are looked after until they are able to use their inheritance responsibly. You would need to decide how much to put into the trust and whom it should benefit, who the trustees are to be and what powers they will have.

**BURIAL OR CREMATION** There is no need to say anything but you may have definite wishes for one or the other as well as specific instructions with regard to your remains. You may carry a donor card and wish your body to go to medical research or transplant surgery. Expressing a wish will also relieve your loved ones from having to make this decision at what will already be a very stressful time.

**RESIDUARY ESTATE** is the remainder of your estate after all the debts, funeral expenses, individual gifts and taxes have been deducted and all your other wishes have been carried out. You have to decide whom you want to benefit from this residue and by how much.

If you find all this worrying or confusing, we, at Talbots, can help. We have the specialist knowledge and experience to guide you through all the necessary decisions you will have to make in the course of drawing up your Will.

## **INHERITANCE TAX AND TAX PLANNING**

Inheritance tax may be payable on certain lifetime gifts and on the assets of your estate at the time of your death. Every year the Chancellor in his annual budget speech sets the threshold at which Inheritance Tax becomes payable. Tax planning and a well drafted Will can substantially reduce your potential Inheritance Tax liability, and ensure that more of your money and assets pass to your family.

Currently if you have property worth over £312,000 your estate will probably be subject to Inheritance tax, which is currently 40%. The Inheritance tax threshold is planned to rise to £350,000 by 2010/11. It is calculated on all your estate including your property, bank and building society accounts, insurance and pension policies, your car and other personal possessions, after deducting any exemptions. Since October 2007, any unused Inheritance tax allowance, when a spouse or civil partner dies, may be transferred to a surviving spouse or civil partner and used to increase their inheritance tax allowance when they die. There is however no provision to transfer this allowances if a couple is not married or has not gone through a civil partnership.

Again, Talbots have the knowledge and experience to guide you through the intricacies of Inheritance Tax, enabling you to capitalise on the various exemptions and relief, all of which will reduce the tax payable on your estate.

## **USING A SOLICITOR**

Anyone can buy a Will form at a local shop and draft it on their own. There are a number of reasons why this is not a good idea but one of the main reasons is that you may lose the opportunity to reduce or minimise the Inheritance Tax payable on your death. Another major problem with home-made Wills is that one mistake or omission, no matter how small, may invalidate the entire Will. The intention of your Will may be very simple but the legal formalities and language required are complicated and must be strictly followed. Many words and terms have specific meanings in law which are different from their everyday use.

Talbots will offer you objective and impartial advice. Solicitors are trained to spot problems or inconsistencies and assist you to consider all possibilities, some of which you may not have thought of yourself. We will tell you of anything which might prejudice your wishes, and our advice is completely confidential.

We will listen carefully to what you want to include in your Will and then explain to you the legal and financial implications of your intentions. When satisfied that you are clear and certain on all the relevant points, we will draw up your Will and ensure that it is properly signed and witnessed.

Your Will is one of the most important documents you are ever likely to put your name to and it is therefore important to keep it in a safe place. We will also look after your Will free of charge, as part of our service. In addition we are happy to discuss it with you at regular intervals to determine whether, because of changes in circumstances or through tax changes, your Will needs to be updated or amended. Your Will can be revoked or amended at any time. This may be necessary if your life changes in any way, with for example the arrival of children or grandchildren, or through marriage or divorce. Marriage automatically revokes any existing Will. Employing legal services to help with your Will is not necessarily expensive, and we will give you an estimate of our charges in advance.

Remember – you will save more money by having a well drafted and tax efficient Will, and you can be confident that your affairs will be dealt with by those you trust and in accordance with your wishes.

## **WHAT TO DO NEXT**

Please contact us to arrange a convenient appointment at either of our offices in Kidderminster or Stourbridge, (home visits can be arranged if necessary) when we shall:-

- listen carefully to your wishes
- advise how best to provide for these
- advise on any Inheritance or other tax implications
- give you a guide on the costs
- prepare a draft Will for you to consider at home within seven days of your initial appointment
- arrange to meet with you to sign the Will once you are happy with it
- discuss any other related issues

**Please contact any of the offices below and ask for Gill Bowskill or Sharon Oakley.**

**63 Market Street  
Stourbridge  
DY8 1AQ**

**30 Church Street  
Kidderminster  
DY10 2AX**

**Tel: 01384 445850**

**Tel: 01562 749910**

**Email: [wills@talbotssolicitors.co.uk](mailto:wills@talbotssolicitors.co.uk)**