

## WILLS AND POWERS OF ATTORNEY

### PART ONE - WILLS

#### WHY WRITING A WILL IS IMPORTANT

As a charity that supports older and vulnerable people we often hear about clients who have died who have not made a will. This can cause difficulties for family or friends who are left behind who want to help sort out that person's affairs.

People make assumptions about what happens to their house, their savings and their personal possessions when they die. All of those assets are called your "estate" and people's assumptions about what happens to their estate are not always correct.

If a person dies without a will, that is called dying "intestate". If a person dies intestate their assets will be divided among certain surviving family according to a formula set by the law. That formula may not match the wishes of the person that died. In addition, a spouse is not always entitled to the whole of their husband's or wife's estate. All of these rules mean it is worth being specific about exactly what you want to happen after you die.

Finally it is worth noting that delays may arise with funeral arrangements because it may not be clear who has responsibility for dealing with the arrangements. A will can also be an important factor in making sure your assets are not taxed more than is necessary after your death.

For all of these reasons it is sensible to have a will.

#### HOW TO WRITE A WILL

It is possible to write your own will without professional help and some people with very simple assets use forms that can be bought in stationers. That is not advisable if your will is not straightforward. Examples of situations which are not straightforward:

- You share a property with someone who is not a husband, wife or civil partner
- You want to leave money or property to someone who cannot look after themselves
- You have family members who might make a claim on your will, which might be a spouse or children from another marriage
- You have property overseas or you own part of a business

There are very specific rules about how a will must be written and signed to ensure it is valid. If those rules are not followed, then the will may not work at all and if that person dies they may die

intestate even though they had a written will. If you are unsure we recommend seeking professional help.

The most important things that should be covered in a will are:

- Who is going to sort out your affairs after you die. That person is called your executor
- Who you want to benefit from your will. Those can be specific gifts – e.g. “I want my friend John Smith to have £1000”. Or you may want a named charity to have a gift. Or you might give a formula e.g. “after all my specific gifts are paid, I want all my children to have a one third share of the remainder of my whole estate”
- Identifying information like addresses will help to find the people who should benefit.
- After specific gifts are allocated you should think about the remainder of your estate – often called the “residue”. That is what is left of your estate after payment of specific gifts, any debts, funeral expenses and inheritance tax.
- What you want to happen if the people you want to benefit die before you
- If all the people you want to benefit die before you, you may want a charity (or several charities) to benefit. If you do not name someone to benefit then your will may fail and the state will benefit.

## **PROFESSIONAL WILL WRITING SERVICES**

It can be a very cheap and simple thing to do to get a professional to write a will for you.

Some charities provide free will writing services and you can find out about those on their websites or by telephoning their helplines.

Local solicitors will help and some of these will come to your home if mobility is a problem. We do not have any specific recommendations for you about who to use but we have included the contact details of a number of solicitors firms locally who can help at the end of this leaflet.

## **PART TWO – POWERS OF ATTORNEY**

### **WHY MAKING A POWER OF ATTORNEY IS IMPORTANT**

If you have an illness, accident or something else affects you which means you cannot make decisions by yourself you will “lack mental capacity”. As long as you have mental capacity at the moment, you can plan for that by making what is called a lasting power of attorney or an “LPA”. If you do not do that now, you cannot make an LPA after you have lost capacity. And your loved ones may not have the right to make those decisions on your behalf. So depending on the circumstances the state might step in and you may be liable for the costs of that.

To make sure you are clear about your wishes, and to avoid unnecessary costs, it is sensible to make an LPA. There are two types of LPA. One which covers your health and welfare, so things like where you want to live if you cannot look after yourself at home, or what you want to happen with life sustaining treatment. The second type of LPA covers your property and financial affairs. That can be used if you need help managing a bank account, paying bills or selling your home.

## **HOW TO MAKE A POWER OF ATTORNEY**

It is possible to write your own power of attorney without professional help but there is a set form to use and it must be registered. You can find information out about how to make, register or end a lasting power of attorney at this government website: <https://www.gov.uk/power-of-attorney>

Powers of attorney are important documents so we do recommend getting advice from solicitors.

## **PART THREE – LOCAL SOLICITORS CONTACT DETAILS**

Sutton Mattocks & Co LLP  
1 Rocks Lane  
Barnes  
London  
SW13 0DE  
020 8876 8811  
[enquiries@suttonmattocks.co.uk](mailto:enquiries@suttonmattocks.co.uk)

Randall & Phillips LLP  
105 Sheen Lane  
East Sheen  
London  
SW14 8AE  
020 3642 0710  
[info@randallphillips.co.uk](mailto:info@randallphillips.co.uk)

Jackson Longe  
108 Parkshot House  
5 Kew Road  
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The information in this guide is not intended to replace any professional advice or support. FiSH encourages you to contact a solicitor for further advice and instruction.

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