

SOLICITORS FOR OLDER PEOPLE SCOTLAND



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Making Your Will

A Simple Guide

For more information or to speak to one of our trained advisers please telephone our team on 0800 152 2037

Solicitors For Older People Scotland
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Your will should reflect your wishes and yours alone.

Many wills follow a fairly standard path with the whole property of the deceased going to their spouse in the first instance and to the children should the spouse have died first. However there is no compulsion on anyone to follow that pattern. The most effective wills show care and thought for loved ones. However as well as care and thought some practical considerations should be brought into account. Here are some tips to help your thinking.

TIP 1 CHOOSE THE EXECUTORS YOU WOULD WANT.

The executors are key people after the death – they attend to all the business involved in winding up the estate. That can be a stressful business for some but also it is quite an intimate process. You should choose the person or persons you trust most, and you think will do the best job. Always choose more than one executor so if one dies before you the other will be available. Our firm offers a “back up” whereby you may appoint a partner (at no charge) to do the job if your named executors cannot.

TIP 2 TAKE PRACTICAL CONSIDERATIONS INTO ACCOUNT.

It generally doesn't make sense to appoint as your executors folk much older than you who are likely to die before you. By the same token appointing someone likely to be under the age of 18 at the death is not in our view a sensible choice. Also it doesn't usually make much sense to appoint someone who lives far away and would find it difficult to do the day to day work involved. So that long lost son in Australia might not be the best choice.

TIP 3 COMMUNICATE WITH THE EXECUTORS

Nobody is compelled to take on the role of executor – even if you appoint them in the will. So speak to your chosen executors and make sure they are comfortable with the appointment and will do the job. They don't need prior to the death to know what is in the will – but it is reassuring to know they will do the job.

TIP 4 EXECUTORS AND BENEFICIARIES CAN BE THE SAME PEOPLE

Just because someone is an executor that does not mean that they cannot inherit property under the will. In fact the most commonly appointed executors are surviving spouses and they are the most common beneficiaries as well.

TIP 5 TAKE YOUR TIME AND THINK

Only you know the people closest to you. A well thought out will goes a very long way to stopping family arguments. Think through how best you can achieve this – try not to forget anyone. Sometimes what you want might not be what some of your family might have expected. But if your wishes are clear and concisely stated your executor can put them into effect. Children and spouses can never have all rights to an estate removed from them – take advice if you want to know about these rights and how they are applied in law.

TIP 6 KEEP IT SIMPLE

Making a huge list of small bequests to individuals will generally cost a fortune and many such lists are way out of date at the death. Usually we will draw into the will a power for the executor to take into account such lists if handwritten and signed by the person writing the will after the date of the will. This allows the main body of the will be kept clear and simple.

TIP 7 THINK ABOUT THE AGES OF BENEFICIARIES AND ADVERSE EVENTS.

If someone were to inherit as a child – would you want that? If not give the executors powers to hold the inheritance till a later age. Most of us these days live to a good age. This means that sometimes beneficiaries may have died before us – it does happen. Think about that and say where that person's share should go. It will generally go to any children of that person but if you do not want that say so in the will.

TIP 8 SAY WHAT IS IMPORTANT TO YOU

A will doesn't always have to be about property. You can mention in it burial or cremation preferences, who you would wish to look after children following your death or other things of importance to you. Be sensible but include any serious wishes – they are after all an instruction to your executors.

TIP 9 REVISIT AND REVIEW YOUR WILL EVERY FEW YEARS.

For those people lucky enough to be in long term stable family arrangements often a will can stay appropriate for years even decades. But family changes can quickly make wills "out of date" and not appropriate to the new family circumstances. So review your will at any significant family change – or at least every three years. You don't need to change it of course – but just for peace of mind do a three yearly review.

TIP 10 NEVER DO A “DIY” WILL

These are almost always wrong in some way or other – sometimes invalid completely, sometimes partially invalid and frequently confusing. Many pensioners get legal aid and won't be saving money anyway on a “DIY” will. Avoid this short cut – there are just too many things which can go wrong.