

**BEVIRS | LAW**

*Working with you, not just for you...*

# TRANSITIONS ROADSHOW

SWINDON BOROUGH COUNCIL

CIVIC OFFICES

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[www.bevirs-law.co.uk](http://www.bevirs-law.co.uk)

# WHY MAKE A WILL?

- What happens if you don't make a Will?
  - The intestacy rules do not provide for people unrelated by blood and would therefore exclude a common law spouse and step-children
  - You may think all of your estate will go to your spouse automatically
  - Failure to leave a Will can cause discord within a family if members feel they have not been properly provided for
  - You might lose a valuable opportunity to use your Will to mitigate inheritance tax or plan for beneficiaries who are unable to manage money

# Making your Will

1. You can appoint executors – so you will know who will be in charge of winding up your estate
  - So who would you appoint?
    - Close family member – wife/husband & children
    - Other family members
    - Friends
    - Professionals i.e. solicitor
    - A mixture of the above
  
2. What else goes in a Will?
  - Legacies
    - £100 to Joe Bloggs
    - £100 to Cancer Research
  - Specific Legacies
    - All my jewellery to Bob
    - My shares in BT to Joe
    - The contents of my NatWest Bank Account to Fred

### 3. Residue

- Very important clause
  - All to my spouse
  - All to my children at 21 or on more sophisticated trusts
  - If you don't have close family then maybe to other more distant family members or to charity
  - In any event have a longstop cause to cover the situation of all else failing e.g. charity

### 4. Appointment of Guardians

- any child or children under 18
- can be the same people appointed as your executors/trustees

## 5. Funeral Wishes

- cremation or burial
- organ donation

## 6. Trustee Powers

- Wide powers of investment
- Power to insure property
- Advancement
- Rights of minors to capital/income

## Why use a Solicitor?

- Independent and impartial advice
- Solicitors have undertaken many years of training
- Strict Professional conduct rules to ensure your protection
- Professional Indemnity Insurance
- Reasonable Price!!
- Secure storage facilities

## Joint Property

- General rule is that jointly owned property passes to the survivor e.g. husband and wife jointly own a property or a joint bank account
- But this can be changed to tenants in common so that you can leave your share to someone else by Will – a trust maybe?

# Trusts

## Trusts in Wills

- " I leave all of my estate for such of my children as shall survive me and as reach the age of 21 years and if more than one in equal shares"
- "I leave all of my estate upon trust for my wife for her life and subject to that for my children as shall then be living and if more than one in equal shares"
- Need more complex trusts for longer term needs of incapable beneficiaries. These are commonly referred to as discretionary trusts but can take different forms
- Great flexibility – wide range of beneficiaries
- Useful where you want trustees to retain very flexible approach with power to chop and change between a number of potential beneficiaries
- Also useful where the receipt of a large amount of capital might mean beneficiary loses right to means tested benefits
- Or might be going through relationship problems or divorce

## Hybrid Trusts

- A mixture of life interest with underlying discretionary trusts

## Disabled Persons Trusts

A type of discretionary trust that have certain favourable tax treatments

- All payments out must go to the disabled beneficiary
- Except for up to £3,000 per year (or 3% of the assets if that is lower) which can be used for another beneficiaries benefit
- No inheritance tax on transfers out to the disabled beneficiary
- Income & Capital Gains are taxed at the beneficiaries marginal rates rather than at the rate applicable to trusts



## Lifetime Trusts

- Trusts can be set up in lifetime as well as under a Will
- Trusts are set up by a deed
- In that deed, trustees are appointed and the terms of the trust are set out
- Lifetime trusts are useful if you want something to start now rather than waiting for death – they can be useful for inheritance tax planning
- Trusts can be set up with a nominal amount like £10 and then left dormant on the basis that they can be used at a later date i.e. other family members could leave bequests to that trust
- Trusts of any type or origin generally need to be registered with HM Revenue & Customs
- Tax returns may need to be done annually and accounts kept

## Summary

Trusts are a very useful way of protecting assets for a vulnerable beneficiary. They allow control by donor to carry on after the gift is made

## Costs

### Wills

- Range from around £200 plus VAT for a simple Will for a single person
- For a couple, a set of Wills, around £300 plus VAT for simple Wills to £450 plus VAT for Wills with Trusts

### Trusts

A range of £500 to £750 plus VAT to set up a trust

### Lasting Powers of Attorney

£450 to £750 plus VAT

(Also registration fees with the Office of the Public Guardian of £82 per document)

- Any Questions?

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