

Making a Will

✦ Our step by step guide



TFS

THOMAS FLAVELL + SONS SOLICITORS

thomasflavell.co.uk

Making a Will

The manner in which an individual's estate is distributed following their death will depend on whether or not a valid Will was made in the lifetime of the deceased. An individual's estate is comprised of all their property and assets at the date of their death. This leaflet briefly outlines what happens to an individual's estate in both situations.

✦ Dying without a Will (Intestate)

- Where an individual dies without leaving a valid Will, they are said to have died 'Intestate'. The estate in these circumstances will pass in accordance to the statutory provisions of intestacy set out in the Administration of Estates Act 1925.
- The provisions of this statute set out a rigid order of priority of who can and cannot inherit from an intestate's estate and in many cases may not provide for the people closest to the deceased. As a result, these provisions may prove to be inflexible for many people thereby causing loved ones financial hardship and distress at an already difficult time.
- Additionally, when dealing with the administration of an intestates' estate, statute will once again dictate who can and cannot deal with the winding up of the estate. An order of priority is set out in the Non-Contentious Probate Rules 1987. The individuals dealing with the administration of the estate will need to prove to the Court that they have priority and are entitled to deal with this.

✦ Married or civil partnership couples with children

From 6th of February 2020, the Intestacy provisions state that a spouse or civil partner of the intestate deceased will receive the chattels of the deceased, along with up to £270,000 of the deceased's estate.

Where the deceased had children of their own at the date of death, anything exceeding the value of £270,000 is to be split into two equal shares: -

- whereby one share would pass to any children of the deceased providing they reach the age of 18; and
- the other half will pass to the deceased's spouse or civil partner.

Where the estate is worth less than £270,000, the children of the deceased will not receive anything from the estate.

It is important to note that in cases where the deceased was either in a relationship, cohabiting or living in a blended family, the surviving partner or family members would not be entitled to inherit any part of the estate under the Intestacy provisions.

✦ Married or civil partnership couples with no children

The entire estate will pass to the spouse or civil partner of the intestate deceased. This would also apply in instances where a couple have informally separated or awaiting formal dissolution of their marriage or civil partnership.

✦ No spouse or civil partner with children

The entire estate will pass to the intestate deceased's children in equal shares.

✦ No spouse or civil partner or children

The estate will pass to the intestate deceased's parents in equal shares.

✦ The importance of making a Will

In order to clearly set out how an individual wishes their estate to pass following their death, it is imperative that they prepare a Will during their lifetime. A valid Will document will include the following details: -

- Details of executors - the individuals entrusted to deal with the administration of the estate and any substitute executors;
- Funeral wishes;
- Appointing guardians for minor children;
- Specific gifts and legacies;
- Gifts to charities; and
- Distribution of the residuary estate to chosen individuals regardless of the deceased's relationship with them.

✦ Thomas Flavell & Sons Will writing service and charges

A member of the Wills & Probate Team will conduct a meeting with you in the first instance, in order to discuss and fully understand your Will requirements.

- Our Will charges are set on a fixed fee basis taking into account our expertise and time taken to carry out the work and finalise your Will. The exact cost will be confirmed with you during our initial meeting.
- Instructing qualified individuals regulated by the Law Society to prepare your Will provides you with the peace of mind that your Will has been prepared to a high standard.
- Advice will be provided to clients, in particular taking into account those living in blended families or estranged from family members.

- The possibility of claims being brought against the estate under the Inheritance (Provision for Family and Dependents) Act 1975 will also be considered.
- Using our knowledge and expertise we will consider the inheritance tax liability (if any) on the value of your estate following your death and discuss measures that you may wish to take during your lifetime to minimise this liability.
- A draft Will tailored to your personal requirements will be prepared and sent to you for your approval following the initial meeting. Any further changes or amendments can be discussed further and added at this stage.
- Once the draft Will has been approved, we will invite you into the office to deal with the signing of the same, ensuring that the Will signing requirements are fully complied with.
- We will store your original Will in our strongroom at no added cost and ensure that a copy of the same is provided to you for your records.
- We register your signed Will with Certainty – The National Will Register at no added cost.

✦ After you have made your Will

- We recommend that you review your Will on a regular basis, and in particular where your personal circumstances have changed or individuals named in your Will have predeceased you.
- It is also important to review your Will where the value of your estate has increased or when tax legislation has changed.
- We recommend that you contact us if you wish to make changes to your existing Will. Making hand written alterations directly onto your Will document is not advised as this could render the whole document invalid, thereby leading to intestacy.

Other considerations to take into account

- Unless your current Will is made in contemplation of marriage, any marriage or civil partnership entered into after making your Will, will render your Will invalid;
- Where a marriage or civil partnership is formally dissolved following a divorce, your Will remains valid. However, once the decree absolute has been issued, your former spouse or civil partner will be treated as if they had died on the date that the decree absolute was issued, for the purposes of your Will. This may result in intestacy or partial intestacy.
- If you separate from your legal spouse or civil partner without formally bringing the marriage or civil partnership to an end, your Will and the provisions contained within it will still apply. Any provisions in your Will relating to your spouse will still remain valid.
- Where you are cohabiting with a person and have no intention of getting married or entering into a civil partnership, any existing Will remains effective. Your new partner will not benefit from your estate unless they are already named as a beneficiary in your Will.

IN ALL THE CASES MENTIONED ABOVE IT IS ADVISABLE TO HAVE A NEW WILL PREPARED

Making a Will

The Value of your Estate	£
Your Home	£
Contents	£
Car	£
Bank Account Balance	£
Building Society Balance	£
Insurance Policies	£
Pension Policies	£
Stocks, Shares, Unit Trust	£
Premium Bonds	£
National Savings Certificates	£
Other Valuables (jewellery, antiques)	£
Business (if applicable)	£
Other assets	£
	TOTAL £ _____

Less

Mortgage	£
Loans	£
Overdraft	£
Any other loans/debts	£
HMRC liability	£
	TOTAL £ _____

Following your death, your Will is the document that will convey how you wish your estate to pass. The importance of this document can not be underestimated. Having your Will prepared by qualified professionals within the Private Client Team at Thomas Flavell & Sons will ensure that your Will has been drafted to a high standard having taken into account any potential claims that could be brought against your estate.

Contacting us

Telephone enquiries are always welcome. Your enquiry will be dealt with professionally and efficiently by a member of our team. Alternatively you can contact us by email or visit our website for more details.

✦ 01455 610747

✦ law@thomasflavell.co.uk

✦ www.thomasflavell.co.uk



The information in this leaflet can do no more than set out guidelines.

You should not rely upon any of the matters stated and Thomas Flavell & Sons accepts no liability should you choose to do so.

For full advice or further information on this or any other related matters contact our wills and probate team on 01455 610747 or email us at law@thomasflavell.co.uk

TFS

THOMAS FLAVELL + SONS SOLICITORS

thomasflavell.co.uk