A brief guide to wills

and why you should have one...

Helping you prepare and plan for the future

because you matter

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St Nicholas Hospice Care

A Registered Charity No. 287773

For an alternative format or language, please contact:

enquiries@stnh.org.uk

What is a Will and why do I need one?

Your Will is a written record of your instructions for how your Estate – that is, everything you own, less everything you owe – is to be dealt with after your death.

A Will is legally valid only if you:

- write it voluntarily when you are aged 18 or over and "of sound mind" and
- sign it in the presence of two witnesses who are aged 18 or over and who themselves sign it in your presence and in the presence of each other. (Note that neither witness, nor their married or civil partners, may be left anything in your Will.)

Your Will should set out who you wish to act as your Executors – that is, one or more people who you trust to carry out your instructions and wishes, gather in all your assets and pay off all your debts.

It should also appoint Guardians – family members or friends – to look after any of your minor children (those below the age of 18) when you die; nominate the people or

organisations who are to benefit from your money and possessions after your debts and funeral expenses have been paid (your Beneficiaries); and specify what should happen if a beneficiary dies before you. Gifts to Beneficiaries can be of a specific item, a sum of money or a share in your Estate.

You should let your Executors know that you have appointed them in your Will and where your Will can be found after your death, which may be at your home; with a trusted acquaintance; with your bank, your solicitor or a commercial Will storage company; or at the London Probate Service.

After you die, your Executors – if they agree to act – will apply to the Court for the legal authority to deal with your Estate according to your wishes. This is known as a "Grant of Representation", also called Probate. Once Probate has been granted to your Executors, your Will becomes a public document which may be viewed by anyone, and your Executors have a legal duty to act in the best interests of your Beneficiaries.

What happens if I don't have a Will?

Without a Will, you have no control over who deals with your Estate after you die, who benefits from your Estate or who looks after your minor children.

With no Will, you have no Executor. Instead, your next-of-kin – whether that's your spouse or civil partner (including a spouse from whom you are separated but not yet divorced), a child aged 18 or over, or a parent – may be appointed by the Court to act as the Administrator of your Estate.

Guardians for your minor children will be appointed by the Court, and Social Services may become involved in their care, depending upon circumstances.

Your Administrator will be obliged to distribute your Estate according to the law and which family members survive you, in a strictly defined order of succession, starting with your spouse or civil partner (including a separated spouse if you are not yet divorced), followed by your children, your parents, your siblings and even your grandparents.

It's worth noting that if you have a surviving spouse or civil partner and children, your Estate may end up being shared between them.

However, if you are unmarried, have no children and no siblings, and your parents and grandparents have died before you, your Estate may end up with aunts and uncles or their descendants – people you may never have known – or, if you have no surviving family whatsoever, in the hands of the Crown. This is known as the Law of Intestacy.

What about my unmarried partner?

Whether or not an unmarried partner has lived with you for any length of time, the law neither permits them to act as your Administrator nor gives them a legal entitlement to any of your Estate. The idea that the "Common Law" protects them is a dangerous misconception.

If you wish to appoint your unmarried partner to be an Executor, to leave even a small gift to them, and especially if you wish to provide for their future financial security, you must make a Will.

When should I make a Will?

If you are aged 18 or over you should consider making a Will; and every five years you should review it to ensure that it still reflects your wishes.

You should always renew your Will after marriage (which automatically revokes – or cancels – any previous Will you have made) and you should also review it following the birth of a child, when you move house, if an Executor or Beneficiary named in your Will dies, and on separation or divorce.

Why can't I do it myself?

You could write your Will yourself, or use an off-the-shelf document from a high street stationer, or engage a Will-writing service either face-to-face or online.

However, without taking professional legal advice from a qualified, and properly insured, lawyer you cannot be certain that your Will is tailored to meet all of your needs, or written in such a way that it minimises all possible conflicts or difficulties, especially if matters are less than straightforward, for example, if you:

- have shared ownership of a property with someone who isn't your spouse or civil partner; or
- own a business; or
- own property overseas or your permanent home is outside the UK; or
- have family members who may wish to make a claim against your Estate, such as a former spouse or children from a previous marriage; or
- wish to provide for someone who isn't able to care for themselves; or
- have an Estate which is likely to be worth more than the Inheritance Tax threshold of £325,000.

What if I need to change my Will?

Once a Will has been signed and witnessed it cannot be changed, other than by the addition of an official alteration document called a Codicil – which must be signed and witnessed in the same way as your Will – or by making a new Will.

While there is no limit to the number of Codicils you can add to a Will, you will need legal advice to ensure that each new Codicil does not invalidate your Will or previous Codicils.

In many respects, and especially in the case of major changes, you should consider making a new Will which will revoke (officially cancel) all previous Wills and Codicils – and you should ensure that all existing copies of your old Will and Codicils are destroyed, preferably by shredding them.

What if I have a legal question?

Most firms of solicitors offer a free, no obligation, initial discussion of around 20 minutes' duration with a qualified lawyer, aimed at helping you to determine if you need further, more detailed, advice which will then be subject to payment of the lawyer's usual fees.

Where can I find a qualified lawyer?

You will find a list of local solicitors, who we refer to as St Nicholas Hospice Care goodWill Legal Advisers, on our website at www.stnicholashospice.org.uk - simply type "Legal advisers" into the Search box on the Home page.

Further help with your Will from St Nicholas Hospice Care

Wills Weeks

Each year, starting in June, St Nicholas Hospice Care goodWill Legal Advisers undertake to write Wills for clients in exchange for a donation to the Hospice, usually at a discount from normal fee costs.

Does that mean I get a Will for free?

"Free Will" schemes often involve a sponsoring charity paying the lawyer's fees in anticipation of being left a gift in the Will. Although we would not actively discourage you from leaving us a gift in your Will if you were so minded, the Hospice doesn't subscribe to that approach.

Instead, under our Wills Weeks arrangements, at some stage during the process of giving your instructions and having your Will prepared, the lawyer will present you with a branded Hospice donation form and ask you for a donation.

The amount of your donation is at your discretion but we do encourage you to value the service you receive and to look kindly upon the Hospice.

The Wills Weeks “safety net”

Our Wills specialists are all lawyers whose firms are closely regulated by the Solicitors’ Regulation Authority and fully insured against future claims in the event of anything going wrong. Other Will providers may not afford clients the same levels of protection.

Are you Willing to Help?

A gift to charity in your Will not only benefits the charity itself but can also bring about a saving in Inheritance Tax, thereby increasing the value of your Estate to be shared between family and friends. Your legal adviser will be able to guide you further in this respect.

If you would like to leave a gift to St Nicholas Hospice Care in your Will, you will need to give your legal adviser our address and registered charity number:

Hardwick Lane, Bury St Edmunds, Suffolk IP33 2QY

Registered charity number: 287773

Are you **Willing to Help** your community...

...and secure **Hospice Care** for generations to come?

Gifts in Wills support one in five of our patients. A gift to St Nicholas Hospice Care in your Will could make all the difference to a family facing caring, dying and grief. It doesn't have to be a huge amount – 5% of your Estate may provide a generous gift to the Hospice, leaving 95% to be shared among family and friends – but it could ensure that future generations have access to Hospice Care locally.

You don't have to be fabulously wealthy to remember the Hospice in your Will. You just need to be Willing to Help your community.

If you need further information from us

If you would like additional information about anything contained in this leaflet, please contact our Gifts in Wills Manager, Nick Duncan, via email at nick.duncan@stnh.org.uk or by calling:

075 4565 7216

For information about other Hospice services, please email enquiries@stnh.org.uk or visit our website www.stnicholashospice.org.uk or call us on:

01284 766133

The small print

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