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## 17 Good Reasons to Make your Will

*A Guide provided by Rod Jones of Convenient Wills*

### 1 Welcome

Thank you for requesting this guide. I hope you find it helpful and informative.

The only way for us to be 100% sure the content contained in this guide is relevant to you specifically is for us to undertake a complete fact-find interview to establish your circumstances and wishes. For this reason this guide must be regarded as an information tool, and nothing more. The guide's purpose is to equip you with information about the topic so that you can then use this information when discussing your affairs with a professional adviser -- at which time you can verify the information contained in the guide and qualify any implied recommendations it contains.

This report is provided on that basis. We regret we cannot accept any responsibility or liability for any adverse outcomes for you or your family, no matter how caused. In addition, we do not accept any liability for any mistake, error, or omission from this guide. We take great care to ensure the technical accuracy of these guides and reports but, despite our best efforts, mistakes can occur and the laws relating to estate planning can change (and often do so with very little notice).

This guide is one of a number of guides and reports available from our website [www.convenient-wills.co.uk](http://www.convenient-wills.co.uk); they cover a wide range of aspects dealing with estate planning in general, and making your Last Will & Testament and Lasting Powers of Attorney in particular.

All our downloadable guides and reports use hyperlink technology. This allows you, if you are reading the document direct from a computer with access to the Internet, to click on a hyperlink (indicated with blue, underlined text) and you will be taken through to the appropriate article. Please note that the guide is not designed to be printed off; if you wish to print off the guide please [contact us](#) and we will send you an amended version.

If you require further information or clarification on any aspect of this guide then please do not hesitate to contact me. I will be only too pleased to help.

And finally, as you read this guide you may realise that it would be a lot easier, quicker, and simpler for a professional to just get on with making your Will for you. We would like to help. Please [click here](#) to read the full features and benefits of our home visit service, or [click here](#) to register your interest (without obligation) in our services.

*Rod Jones*

Rod Jones A.C.I.B.  
Proprietor of **Convenient Wills**

## 2 Introduction

Although not frequently discussed amongst family and friends most people acknowledge that they should make a will. But why?

The common perception is that a will sets out [in a legal document] how a person's estate is to be distributed in the event of their death. This is partially correct. But a Will can achieve far more than just distributing the person's estate. The aim of this guide is to show just what can be achieved with a professionally drafted will.

Over the the next couple of pages are listed specific characteristics of a testator (i.e. The person who makes a will) with a summary of why it is important for them to make a will.

The easiest way for you to determine just why you should make a will is to identify which of the following headings match your own circumstances. The explanation following the headings of those that do match your own circumstances explain the implications and potential consequences of you not making a will.

You will probably find that you 'fit into' three or more of the criteria stated. In other words there are three or more reasons why you should make your Will.

## 3 Every adult (irrespective of the assets they own)

Quite frequently I hear the comment 'I don't need to make a Will as I have no property or assets to give away.'

The statement about the wealth may be correct, but consider this observation from one of my clients:

***“My mother always said she did not need to make a will as she had nothing to give away. But she was wrong. Our family argued over her possessions, who was to sort out her affairs, and even over her funeral arrangements. Not making a Will was a false economy.”***

Distributing a person's estate is just one aspect of the consequences of making a Will. A professionally drafted Will will include a number of administrative clauses designed to simplify the task for the executors. At the same time the will will appoint somebody that the testator can trust to sort out their affairs i.e. Their executors (Remember: Every estate needs to be sorted out at the time of death). The will should also include a direction as to how the testator wishes their body to be disposed of e.g. By burial or creation.

These features should be common to every will. They resolve so many family arguments that every single person over the age of 18, irrespective of what property they own, should make a will.

## 4 I have some assets

This is an extension of section 3 above.

In addition to appointing executors, stipulating funeral arrangements etc a Will for a person with assets (Assets could be property, personal chattels, savings and investments, death-in-service benefits, life policy proceeds, and benefits from a trust) can stipulate who is to benefit financially from their estate.

The distribution of the estate could be by way of the residue clause and specific legacies. The legacies could be conditional (e.g. The beneficiary as to attain a specific age)

## 5 I wish to make a donation to charity, organisation, or church

This is an extension of section 4.

It is important where a person wishes to make a donation to a charity, organisation, or church that their will includes the appropriate administration clauses to allow the executors to accept a receipt from the charity/organisation/church to discharge them (the executors) from their duties in connection with the gift.

Many gifts fail because these necessary clauses are not included within the will.

Further, specific clauses are required when making gifts to churches to ensure that the money goes to be preferred church and is used for the purposes the testator wished.

## **6 I cohabit with another person**

Unless a Will specifically states a partner is to benefit from the testator's estate then the partner will not inherit any part of the testator's estate on their death. Under the Rules of Intestacy (which is how an estate is distributed where no Will has been made by the deceased) a partner is not recognised legally.

This often creates problems for a surviving partner. Many find themselves homeless as a result, and all because the deceased person failed to make a simple will naming their partner as a beneficiary.

There is one possible remedy for a partner who finds themselves severely affected, where they have been cohabiting for some time. That is for the surviving partner to go to Court under the Inheritance (Provision for Family and Dependents) Act 1975 to obtain some form of redress. This though is an expensive option.

## **7 I am married or in a civil partnership**

There is a common belief that everything will be automatically transferred to a surviving spouse or civil partner in the event of one of them dying. The phrase by many men ... 'Why bother making a will, everything goes to her indoors.' summarises this common perception.

Unfortunately it is not necessarily true. In the event of a husband, wife, or civil partner dying intestate (i.e. without making a valid will) then only a set limit will be transferred to a surviving spouse/civil partner, with the remainder being divided in accordance with The Rules of Intestacy. This division of an estate can create surprising results.

**True example:** Mr and Mrs A lived in a property valued at some £400,000. They had 2 adult children. They were reasonably well off with pension incomes sufficient to provide their needs, although they had minimal savings. The property was owned by Mr A. Mr A. died without making a will.

Mr A's surviving wife expected the property to transfer automatically into her name. She was in for a nasty shock. At the time of Mr A's death the limit applying to the transfer to a surviving spouse was £200,000. As a consequence of this the first £200,000 was transferred to Mrs A. The remaining £200,000 was divided into two equal shares, with one share being held in trust for the children until Mrs A died, and the other share had to be paid out immediately to Mr A's adult children.

You can see from this case that the children were due £100,000. Mrs A did not have those monies available and therefore faced being made homeless as the property would have had to be sold (as the only source of finance) to pay out her children.

Although the statutory limits have now been increased from the £200,000 that applied to my client's family (the children became clients once they realised the importance of making a will), you can still see from this example how important it is to make a will to protect your surviving spouse or civil partner.

## **8 I am divorced**

Depending upon the divorce settlement you may be surprised to find that your ex -- spouse could still have a claim on your estate in certain circumstances.

If that is the case then a will can help defend an estate from such a claim. Most divorcees would not want their former husband/wife/civil partner to benefit from their estate.

## **9 I am the parent of a minor child**

If a minor child is orphaned and nobody has been appointed as guardian of their child then the Law Courts will decide who is to be appointed as Guardian.

In England there is an independent body who assist in family proceedings. CAF/CASS (Children and Family Court Advisory and Support Service) have the role of advising the Courts so that the decisions they make regarding the appointment of guardians are in the best interest of the child.

Where there is a conflict a Children's Guardian is appointed who will be a CAF/CASS officer and a more in depth investigation will be necessary. Throughout this investigation the child may be allowed to live with one of the applicants or, where it is deemed necessary, the child may be looked after by Social Services until the Courts can make a decision based on the report provided by the Children's Guardian.

In the worst case scenario the child can ultimately be placed into Local Authority care.

**True example:** Mr and Mrs B's daughter died. She left a seven-year-old daughter. The grandparents -- Mr and Mrs G applied for guardianship of their granddaughter. So too did the parents of the natural father. Mr and Mrs G have been awarded interim guardianship while the authorities make their formal decision. The case has been ongoing for six months to date and there is no sign of a resolution at the moment. In the meantime of course the granddaughter can sense the uncertainty within her family.

Considering the cost of a will, and the consequences for the granddaughter, you can see that making a will provides real value for money.

As an aside to this story I have now made a Wills for everybody in that family as they could all see the benefits of making a will. It is just a shame that it took a death for this to come to light.

A second reason for a parent of a minor child to make their Will is that they can stipulate the age the child should inherit. Most parents do not want their child to inherit their estate at age 18. Most parents choose age 21, and some choose age 25 -- the increase in age reflecting the expected greater maturity of their child.

## 10 I am the parent of an child

Very few parents wish to disinherit their child. Despite this many children are disinherited. The reason being that the parents failed to protect (or ring fence) their child's inheritance.

**For example:** Mr and Mrs C. had two children. They had been married for 30 years when Mrs C. died. Under the terms of Mrs C's Will her whole estate was transferred into her husband's name. Three years after Mrs C's death Mr C found a new partner which he eventually married. His children were pleased that he had managed to rebuild his life after the death of his first wife. They were less pleased when they found that after his death Mr C had failed to make a new Will. As a consequence, when he died, his estate went to his new wife in its entirety. When the new wife passed away the whole estate went to her children ... to the exclusion of Mr and Mrs C's children. Mr and Mrs C's children now see on a regular basis the children of their father's new wife driving round in expensive cars -- that they know were paid for from their own parents savings.

What Mrs C should have done was protect her children's inheritance, creating a trust that allowed Mr C to enjoy her assets while he remained alive but ensuring that the assets were passed to her own children on Mr C's death. In an ideal world Mr C should also have protected his estate when he married his new wife.

## 11 I have stepchildren

Stepchildren need to be specifically named in a will. A stepchild is not included in the accepted legal definition of the phrase 'my children'. This interpretation has implications for any gifts made to the step child -- including those included within any residue distribution clause, and the appointment of any guardian.

**For example:** Mr D. had three children from a previous relationship. Likewise Mrs E. had two children from her previous relationship. Mr D. and Mrs E. married in 2006 and subsequently made their Wills that gave their estate to their surviving spouse but if the spouse failed to outlive them then on the 2nd death the estate was then to be shared equally between their [five] children. In 2010 Mr D. died. His wife died the following year. In accordance with Mr. D's Will his estate transferred to Mrs E. on his death. On Mrs E's death her two children inherited all of the family's estate, to the exclusion of Mr D's children who inherited nothing. The reason why this was so was because Mrs E's Will simply stated that her estate was to be 'shared equally between her children'. No override was contained within her Will indicating that her wishes in this phrase included her stepchildren.

Many people have Wills that are written with 'class' distributions. By that we mean rather than naming the children or siblings individually a gift is made to the class of 'my children' or 'my brothers and sisters'. For most people that is okay, but as already mentioned a stepchild is not included in the standard legal definition of children. And when the Will refers to a brother does the testator want their half brother included as a beneficiary? A better solution whenever there are stepchildren and 1/2 brothers and 1/2 sisters in the family is to name those beneficiaries in full. This provides clarity and thus reduces the risk of the case being referred to the Law courts for them to decide how the Will should be interpreted.

## 12 I have a severely disabled child

There are two aspects to having a severely disabled child. One is the probability that the child will be unable to look after their own finances in the future when their parents are no longer around to provide support the child needs. The second aspect is that if the child qualifies for means tested benefits from Social Services but then subsequently inherits your estate [following your death] then Social Services will stop paying the means-tested benefits to your severely disabled child -- because the receipt of your inheritance forced the child's asset value over the threshold set by Social Services.

The end result is that your child's inheritance pays for your child's welfare, rather than giving them an improved quality of life.

The solution is for your inheritance to be placed into a discretionary trust. This trust, if set up correctly, will qualify for preferential tax treatments. Further, the trustees will be able to control your child's inheritance. And lastly, because your child does not own the assets of the trust (these are owned by the trust itself) then the benefits from Social Services should continue without interruption.

You can see therefore the importance of making a will that contains the appropriate discretionary trust.

You might find our guide ['Trusts, Traps and Wills'](#) helpful.

## 13 I am likely to have an inheritance tax liability

It is possible to eradicate any inheritance tax liability if you have sufficient time and are prepared to devote the resources required to achieve that objective. Most people leave tax planning until it is too late however.

Inheritance tax planning is a complex area of estate planning. We have created a separate guide to cover inheritance tax planning. It is entitled [Inheritance tax - and how to reduce your liability](#). Needless to say, a professionally drafted will forms the backbone of most people's inheritance tax planning. Please read our guide for more information.

You may also find our guide entitled ['Trusts, Traps and Wills'](#) interesting reading. Our web page ['Severance of Tenancy'](#) may also be useful.

## 14 My children are likely to have an inheritance tax liability

Even though you yourself may not have an inheritance tax liability it is not uncommon for your children to be financially better off than you. Further, you giving your estate to them will only add to their inheritance tax problems. Sometimes the solution therefore is to jump a generation with your gifts i.e. Part or all of your estate is paid to your grandchildren, as opposed to your own children. Again, this is only possible with a properly constructed will.

More details are included in our guide [Inheritance tax - and how to reduce your liability](#).

## 15 I wish to protect my property from being used to fund the long-term care costs of my surviving spouse/civil partner

Many people are concerned at the risk of their property being forcibly sold to fund the long-term care fees of their surviving spouse or civil partner. Approximately 40,000 properties every year are forcibly sold in this manner to fund care costs.

**For example:** Mr and Mrs F jointly own their family home. In 2005 Mr F. died. All his estate was transferred into Mrs F's sole name. Shortly thereafter Mrs F. was deemed to have dementia and unable to look after herself. As a consequence she was admitted to her local care home. The pension for Mrs F. was unable to meet the £25,000 per annum fees of the care home. As a result Social Services forced the sale of the family home. Mrs F. remained in the care home for five years with the result that the sale proceeds from the family home of £100,000 were all consumed in care fees for her (with the exception of approximately £13,000 that she is allowed to retain). When Mrs F died £4000 of her remaining savings was used for her funeral arrangements. Her children then inherited the residue i.e. approximately £9000.

Had Mr and Mrs F. seen a professional adviser it is quite probable that they would have been able to save at least 50% of their estate for the benefit of the children, had they wished to do so. Our guide ['LTC - and defending your assets'](#) explains more. You may also wish to read our web site explains about ['Severance of Tenancy'](#).

This example also shows one reason why prepaid funeral plans should be considered. Had Mrs F purchased a pre-paid funeral plan before her savings have diminished to around £20,000 then she would have reached the £13,000 threshold sooner, but more importantly her estate would not then have had to pay for her funeral out of her residual savings. The end result is that her children would have inherited £13,000 as opposed to the £9000 that they actually received.

**16 How many of the following apply to you? ... I own a part share of another property in which family members reside. • My son/daughter's marriage is on the rocks. • My son/daughter is taking recreational drugs. • My child is at university and only returns home at holiday time. • I do not know what the value of my estate will be when I die. • I want to give my estate to a specific person on condition that when they no longer required it must go to another person.**

All of the above are reasons to include a trust within your Will. The trust will either provide protection for a member of your family, or defer transfer of ownership of your property to your nominated beneficiary. In all cases the trust allows you to retain some form of control over your estate (albeit via your trustees) after your death. Our free guide ['Trusts, Traps and Wills'](#) explains more about how a trust in your Will can help protect your beneficiaries and/or your property.

### **17 I want to exclude someone**

Many people do not want a family member to benefit from their demise. This wish is commonly a consequence of a family row, but there can be any number of reasons.

If no Will is made then a person's estate will be distributed in accordance with the Rules of Intestacy; if the person to be excluded was a beneficiary under those rules then they will inherit. The only way to ensure that such a person does not benefit is to have a correctly drafted Will in place at the time of death.

Care is needed when drafting such a Will. There is a fine line between legitimately excluding someone and making the will vulnerable to challenge -- in particular under the Inheritance (Provision for Family and Dependents) Act 1975. A professional will writer should be instructed to draft the will to avoid potential complications in the future.

Incidentally, where your will does include a gift to a person but you feel your Will may be challenged by that person in an attempt to obtain more from your estate than you wish to give them then you can include a 'forfeiture' clause in your Will to act as a deterrent.

### **18 I have a business**

A professionally drafted business-person's will gives the business owner's executors a whole raft of options that they would not otherwise have. These include significant potential tax savings. Our free guide ['Business Person's Wills'](#) explains more about why it is so important for a business owner to make their Will.

### **19 I have a property abroad**

Where a property is held abroad there is a potential conflict between that countries legislation and the UK. The Will must state which law applies to what. If necessary additional powers need to be given to the executors. Either way, a Will is required if potential future costs are to be avoided. Courtesy

### **20 Additional reading**

Before you make your Will you may wish to also read the following guides

- ♦ [How to make your Will](#) - which gives guidance as to remind methods by which the will can be made and helps you identify the best method for yourself; and
- ♦ [Tricks of the \[will-writing\] trade](#) - which highlights some of the marketing tricks used by Will writers and solicitors to attract your business with potential outcomes that are undesirable for you.

### **21 Make your Will**

Are you looking to make your Will? Using a professional will-writer can be quicker and more cost effective in the longer run than doing it yourself.

**Convenient Wills** is the only home visit, specialist Lasting Powers of Attorney & will-writing business located in Newcastle-under-Lyme that covers North Staffordshire, South Cheshire and North Shropshire.

**Convenient Wills**, as a specialist home-visit will-writing service, offers you:

- ♦ **convenience:** we come to your home, thereby saving you travel costs, and time;
- ♦ **flexibility:** our appointments are held at times convenient for you, including daytime, evening, and at the weekend. There is no need for you to take time out from work;
- ♦ **a relaxed atmosphere:** the discussions are held in the comfort and relaxed atmosphere of your own home -- and not in an 'oppressive' office in your local (or not so 'local' in some cases) town;
- ♦ **time saving:** our experienced and friendly consultant will advise and guide you through all the options you should consider -- thus eliminating the need for you to undertake any prior research, such as searching the Internet or library to see what you should include;
- ♦ **a bespoke Will:** your Will will be legal and personalised to match your exact wishes. This means, for example, that the names of your children will be included in your Will rather than just referring to them as your 'children'; and we will draft your Will to match your wishes rather than making your wishes fit into one of our pre-formatted template wills.
- ♦ **a fixed fee:** We do not charge extra for the inclusion of, say, a trust in your Will (Unlike some of our competitors). Nor do we do increase our fees if we feel you can 'afford' to pay more; and
- ♦ **protection:** our processes (which includes visiting you twice) ensure your Will can be defended from claims of lack of capacity, undue influence, and fraud.

The full features and benefits of our home visit will-writing service is available on our [web site](#). To register your initial interest (without obligation) in our services just [click here](#).

Not all will writing services are the same.

No one likes to consider their demise; we though make the task relatively simple. If you would like to join our existing and growing group of satisfied customers please call Rod on:

(Stoke) **01782 639716** or click on

[www.convenient-wills.co.uk](http://www.convenient-wills.co.uk)

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More information and helpful, informative guides are available from our web site, or by calling us direct.

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