

Why is it important that you make a Will?

Wills & Probate Update



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Because you work hard all your life to build up your assets, it is very important to be confident that, upon your death, these assets go the people you would want them to go to.

If you do not make a Will (or if your Will is incorrectly drafted or executed, which is always a risk if you have, for example, made a "do it yourself" Will), then there is a chance that assets will not go where you want them to.

The story below gives an example of what can go wrong, and the outcome of that.

Chris was aged 60, a widower with no children. Chris had a brother, Martin, to whom he was very close. Martin had a family and was in financial difficulty because he had recently been made redundant. Chris and Martin's mother had died some years ago, but their father Alan was still alive. Alan was elderly and had lost mental capacity and resided in a care home.

Because Alan had resided in a care home for several years, all of his savings (including the proceeds of the sale of the family home) had been used to pay for his care fees, so his care was being funded by the Local Authority. This however meant that there would be no inheritance due to Chris and Martin from their parents.

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- Will, Inheritance & Trust Disputes
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- Farming & Agriculture
- Town & Country Planning
- Elderly Client Services

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- Civil Litigation including Debt Collection
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Chris made a Will but did not have it drafted by a Solicitor, instead he bought a "do it yourself" Will writing pack.

The Will he wrote left everything to his brother Martin. Chris signed the Will but did not have it witnessed by two independent witnesses, only one witness had signed the Will. Chris then died unexpectedly. Martin took Chris's Will to a solicitor to ask for help with administering the estate, and the solicitor pointed out that the Will was invalid so, in fact, Chris had died "intestate" (i.e. without a valid Will) and his estate would therefore pass by the "rules of intestacy". Because Chris did not have a wife or children, the next relatives in line to inherit his estate under the rules of intestacy would be his parents, so his estate passed to Alan as his surviving parent, by intestacy. This meant that Alan was now eligible to pay for his own care again, and Martin did not inherit from Chris.

So despite the fact that Chris's wishes were clearly written down, the wishes were not met because the Will was not executed correctly so was not valid.

This is just one example of what can go wrong if you die without a valid will. It is always advisable to make a Will and to seek legal help with this to ensure that it is valid.

Ware & Kay

Contact us

For more information or to make an appointment, please contact a member of our Wills & Probate Team on York **01904 716000** or Wetherby **01937 583210**.

If you prefer, you can email us at law@warekay.co.uk or call into one of our offices, both of which are centrally located.

Visitors will get the benefit of our FREE car parking.