

# WILLS

## PROBATE & ESTATE PLANNING



Legal Services  
Conveyancing  
Criminal Defence & Motoring Offences  
Family Law  
Housing  
**Wills, Probate & Estate Planning**  
Accident Compensation Claims



# Norrie Waite & Slater

Whether you are planning to make a Will, helping a family member to deal with their finances or dealing with the estate of a loved one, Norrie Waite & Slater solicitors has the knowledge and experience to guide you through the legal process.

We offer a free initial consultation and we are happy to offer home and hospital visits where required.

## Contents

### **Making a Will** **3**

Making a Will  
Life interest Wills  
Guardianship for children  
Legacies and charitable gifts

### **Wealth Protection** **7**

Inheritance Tax Planning  
Planning for Nursing Home fees  
Using Trusts to protect wealth

### **Helping someone to manage their affairs** **8**

Lasting Power of Attorney (LPA)  
Court of Protection

### **Dealing with a deceased person's estate** **11**

Applying for Grant of Representation  
Administration of Estates

# Making a Will

## *Why should I make a Will?*

- **Specify who will inherit your assets.**

Making a Will is the only way to ensure that your assets go to your loved ones in the way that you would like. If you have not made a Will, the law decides how your estate is distributed and in some cases it may go to the Crown.

- **Unmarried partners.**

If you are living with someone but are not married to them it is critical that you make a Will to protect them, otherwise they may get nothing.

*The idea of a common law spouse is a myth in legal terms. Unmarried partners may not receive anything if their partner dies without leaving a Will.*

- **Personal possessions.**

Even if you do not have substantial financial or property assets you may still have important personal possessions which you may wish to leave to particular people.

- **Nominate guardians for your children.**

A Will is particularly important if you have children as you can specify who you would like to look after them if you died.

- **Avoid family disputes.**

If you do not leave a Will you are increasing the chances of your estate being disputed by family members later on. By making a Will you can avoid any dispute by making it clear exactly what you want to happen.

- **Specify your funeral wishes.**

- **Make donations to charity or favoured causes.**

## ***What happens if I don't make a Will?***

The danger of not making a Will is that you will have no say in who gets what. Family members who you may not wish to could inherit your assets. Likewise, people who are not blood relatives but who you would like to inherit, such as unmarried partners, may not receive anything.

If you die without leaving a Will, you are said to have died 'intestate' and your estate is distributed according to the laws of intestacy. The laws specify how assets are distributed to family members in a fixed order. If you have no family members then your assets will go to the Crown.

Things can also become particularly complicated in cases where someone has remarried and not made arrangements for children from previous marriages. With the right type of Will it is possible to protect your children's inheritance whilst still providing for your current spouse at the same time.

## ***Can I make a home made Will?***

Many people write home made Wills or buy Will making kits from stationers in the belief that they will be effective. In many cases they are not because of mistakes made or lack of understanding of the law.

It is important to remember that the cost of a professionally written Will includes the advice given by an expert, such as a solicitor, who is subject to regulation by the Law Society.

There are many rules which govern how Wills are drawn up and witnessed. If you have an incorrectly written Will it may be disregarded or ineffective when you die. This can result in you effectively being intestate and your assets not going to those you wish, and even possibly going to the Crown. The legal costs incurred to rectify any errors in a home made Will may well exceed the cost of a professionally prepared Will.

*A professionally written Will can be surprisingly inexpensive and give you the peace of mind that your wishes will be carried out.*

A professionally written Will can be surprisingly inexpensive and give you the peace of mind that your wishes will be carried out.

## ***Remarried with children from a previous marriage? A Life Interest Will may be the answer***

If you have remarried and have children from a previous marriage, it is possible to ensure the financial security of your current spouse whilst still protecting your children's inheritance.

With a standard Will, if you leave everything to your new partner your assets would become theirs. When they die those assets would then be passed to their beneficiaries, who may be their own children, thus depriving your children of any inheritance.

With a 'Life interest Will' it is possible to avoid this situation. The family home is a perfect example. You may wish to leave this to your children eventually, but still enable your current partner to live in it after you have died. It is possible to give your partner a life interest in the property, which means that after you die they can live in the property until they die (or remarry if you wish), at which point it passes to your beneficiaries.

In this way you can protect both your partner and eventual beneficiaries.



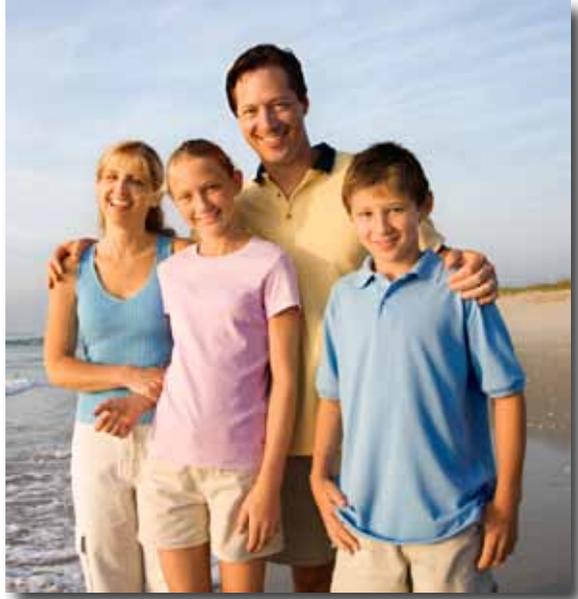
## ***Using a Will to appoint Guardians for children***

If you have children under 18 it is important to consider who would take care of them in the event of both parents passing away at the same time.

While family members may step in to care for them, it may not be who you would choose to do so. Appointing guardians enables you to have some say in who would bring them up. It can also help to avoid disputes between opposing family members who would all like to help.

By stating your wishes in a Will you can make it clear exactly what you would like to happen.

In choosing guardians, consideration needs to be given to the age, health and financial circumstances of the selected parties.



## ***Legacies and Charitable gifts***

Making a Will also gives you the opportunity to leave a legacy to a Charity or cause which is close to your heart. Many Charities rely on legacies for a substantial proportion of their income.

Charitable gifts are paid before tax, so leaving a legacy in your Will is also an efficient method of reducing your estate's Inheritance Tax liability.

# Wealth Protection

## *Inheritance Tax Planning*

Inheritance Tax may be payable on your estate at 40% on any assets above the Inheritance Tax threshold.

During your lifetime, by careful planning, you can reduce the amount of tax payable on your death, therefore leaving more of your assets to your loved ones.

## *Planning for Nursing Home fees*

Many people are concerned about what provision can be made to pay for potential future nursing home fees. We can advise on the different methods available of funding this.

## *Other uses of Trusts*

Trusts have various uses, including minimising Inheritance Tax liability, life interests to protect a current spouse as well as children from a previous relationship and also for managing the assets of vulnerable people.

Contact us

Sheffield 0114 276 6166  
Rotherham 01709 523 983  
Killamarsh 0114 248 4890

# Helping someone to manage their affairs

## *Lasting Power of Attorney*

A Lasting Power of Attorney (LPA) is a legal device article in which you can nominate someone to deal with your affairs should you be unable to do so yourself.

Many people are concerned about what will happen to them in the event of losing mental capacity through such illnesses as Alzheimer's disease, dementia or a stroke. The idea behind the introduction of the LPA is that even someone with reduced mental capacity should still be able to exercise some control over what happens to them and their assets.

By setting up an LPA in advance, you are able to retain some control by choosing someone you trust to act as your attorney to deal with your financial and personal affairs. If you do not have an LPA, and later lose mental capacity, the Courts will appoint someone to manage your affairs and this may not be the person you would have chosen yourself.

*An LPA provides people with the ability to exercise a much greater degree of control over their future in the event of loss of mental capacity.*

There are two types of LPA available, each giving the attorney different powers as detailed below.

### **PROPERTY AND FINANCES LPA**

- Dealing with bank and other financial accounts
- Buying and selling property, shares and other assets
- Dealing with taxes

## PERSONAL WELFARE LPA

- Where you should live and who with
- Your day to day care
- Consenting to, or refusing, medical treatment on your behalf

An option also exists to give your attorney the power to make decisions about 'life sustaining treatment', although this section is optional and is something that you have to explicitly authorise when you set up the LPA.

A Personal Welfare LPA is also different in that it can only take effect after the donor's loss of mental capacity.

You can tailor-make an LPA to suit your requirements, including limiting the scope as you see fit. It is possible to appoint more than one person to be your attorney. You can nominate them to make decisions jointly or you can give certain decision making abilities to each of them.

Attorneys have a duty to act in the best interest of the donor at all times and certain legal restrictions are in place to limit what they are able to do.

An LPA provides people with the ability to exercise a much greater degree of control over their future in the event of loss of capacity.



## ***Court of Protection***

When a family member or friend becomes mentally incapable of managing their own affairs, it is often necessary for someone to apply to the Public Guardianship Office to be appointed as their deputy. This means that someone will be legally entitled to manage that person's finance and property matters.

Loss of mental capacity can arise due to age related conditions such as Dementia or Alzheimer's disease or through accident, mental illness or mental handicap.

Deciding which route to take when you are faced with a situation where someone needs help is not easy. It is often the case with diseases such as Alzheimer's and Dementia that the person involved will have fluctuating mental capacity, good days and bad. In these cases we may seek medical advice to help determine the best solution.

*Home and hospital visits are available on request.*

Our expert solicitors can help you to determine whether the Court of Protection or a Lasting Power of Attorney is the most suitable route. Norrie Waite and Slater solicitors are highly experienced in helping people to deal with the Court of Protection. Whether you simply need help with the application, or you need more involved help managing the person's affairs, we can help.



# Dealing with a deceased person's estate

## *Applying for Grant of Representation*

Norrie Waite & Slater solicitors are experts in dealing with the legal and financial work involved with a deceased person's estate. The paperwork involved can be daunting and quite complex, involving inheritance tax, income tax and many other financial considerations. Our experienced team can remove this burden from you during this difficult time and ensure that the wishes of the deceased are carried out as quickly and efficiently as possible.

In certain circumstances it is not necessary to apply for grant of representation. You should always seek legal advice to ascertain if this applies to you and to avoid any legal problems as a result of not applying for grant when it is required.

## *Administration of an Estate*

Dealing with the administration of an estate can be time consuming, depending on the size and complexity of the person's affairs.

The deceased's assets and liabilities need to be ascertained, their debts settled and their position calculated for income tax and inheritance tax. Assets such as savings, investments, shares, property and insurance policies all need to be taken into account to enable the estate to be dealt with properly and the assets distributed to beneficiaries.

Our team are experienced in administering all types of estates, from the straightforward to the most complex. Contact us to speak to one of our solicitors who will be happy to assess your situation and provide you with an estimate for the work to be carried out.

## Norrie Waite & Slater solicitors offers a wide range of legal services:

- Conveyancing
- Criminal Defence
- Motoring Offences
- Family Law
- Child Care
- Housing
- Wills, Probate & Estate Planning
- Accident Compensation Claims
- Civil Litigation
- Commercial Property

For more information contact one of our branches  
or visit our website

**[www.norriewaite.co.uk](http://www.norriewaite.co.uk)**

### **Sheffield**

9-12 East Parade  
Sheffield  
S1 2ET

Tel: 0114 276 6166

### **Sheffield** (Criminal Department)

72 Queen Street  
Sheffield  
S1 1WR

Tel: 0114 276 5015

### **Rotherham**

69 Broad Street  
Parkgate  
Rotherham  
S62 6DU

Tel: 01709 523 983

### **Killamarsh**

21-23 Bridge Street  
Killamarsh  
Sheffield  
S21 1AH

Tel: 0114 248 4890

Norrie Waite & Slater is regulated by the Solicitors Regulation Authority

The Solicitors Regulation Authority numbers for our offices are:

Sheffield, East Parade: 197548 - Sheffield, Queen Street: 471460 - Rotherham: 197553 - Killamarsh: 197552