

Reasons to review or update your Will – Lastingpost.com

Introduction

You should review your Will on a regular basis and update it if necessary. People often assume that once they have drafted a Will they can place it somewhere safe and forget about it. This is not a good idea. Your circumstances will inevitably change over time and specific events may also occur that make drafting a new Will essential.

Specific Events

1. Your marital status changes. If you get married your existing Will is immediately rendered null and void. If you separate or divorce from your spouse or civil partner you are likely to want to change your Will.
2. You have a new baby (or grandchild) or adopt a child.
3. You want to change the person who you appointed as the guardian for your children.
4. There is a death in the family.
5. You acquire or dispose of a significant asset such as a house or a business.
6. Your general financial situation changes for better or worse. For example, you receive a significant sum of money.
7. You sell anything that is gifted as a specific item in your existing Will.
8. You decide to move outside the UK. In this case you will usually need a new Will in your new country of residence.
9. One of the beneficiaries or one of the executors dies.
10. You want to add another beneficiary or other organisation such as a charity in your Will.
11. You reach retirement age or a time when your own medical or healthcare requirements become important.
12. You simply change your mind about an aspect of the Will.

How often?

In the normal course of events it is good practice to review your Will every three to five years. This will ensure that it remains relevant and current.

Revoking your existing Will

Your existing Will remains valid until you make a new one. The new Will must include a clause that revokes all previously made ones. The only other way for you to revoke your Will is for you to actually destroy it. In any event it is good practice to destroy all previous Wills and as well as any copies once the new Will has been properly signed and witnessed.

Amending your Will

An amendment can be made to a Will provided that you, as Testator, sign the Will in the presence of two witnesses who then sign. All three signatures need to be in the margin of the Will opposite the amendment. However, the alteration of a Will in this way is not good practice and is not recommended. The Probate Registry will not accept the alteration if it is in any way unclear.

Changing your Will by way of a codicil

A codicil can be used to make minor alterations to your Will without the need to draft a completely new one. A codicil may be used, for example, if you want to alter one of the names of the beneficiaries or the amount of money stated in a legacy.

If you want to make a change that is any way fundamental then it is recommended that you make a new Will.

A codicil is a formal document and is subject to the same requirements as the Will. It needs to be properly prepared, then signed and witnessed by two independent people. These people do not need to have witnessed the original Will but using the same witnesses may simplify the process of admitting the Will and the codicil to probate.

An existing codicil is an independent document and will not automatically be cancelled if you subsequently make a new Will. It can exist independently. This may potentially lead to serious problems and inconsistencies. For this reason the revocation clause in your new Will must clearly revoke all previous codicils as well as all previous Wills.

Using a solicitor

There is no legal requirement that you must instruct a solicitor to draft your Will or to arrange the witnessing process. You can draft your own and organise your own independent witnesses. However, the Will must be drafted correctly to be valid. The Probate Registry will refuse to accept a Will if it is in any way incorrectly prepared.

There are online Will writing services and self help books available if you want to draft your own Will. However, you should only consider using these if your affairs are very straight forward. Even then we suggest that you have a solicitor check the Will you have drawn up to ensure that it will have the effect you want. Mistakes are easy

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to make and sorting out misunderstandings and disputes may result in considerable legal costs after your death.

For this reason we suggest that everyone wanting to make a Will should think about taking professional advice. Your Will is such an important document and there is considerable potential for problems to arise. The cost of the professional advice may well be a price worth paying for the resulting peace of mind.

If your affairs are in any way complicated, for example, because you have been married more than once or you own a business then you should definitely seek professional advice.

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