

# INTRODUCTION



## Good Willing..

**T**his book is intended to assist anyone and everyone. It is not a Will and nor should it be considered as such. It is however, something which, once completed correctly, should save incalculable amounts of stress and take most, if not all, of the guesswork out of making arrangements following a death and in the administration of an estate. Whilst a Will centres on the deceased's finances and possessions, this book, which will serve as a Letter of Wishes, deals with the more intimate aspects of passing and caters for fundamental issues which have to be addressed on a more practical and personal level. What is crucial is to recognise that the content of this book is applicable to *everyone*, regardless of age.

In reading and completing *Last Orders*, you are assisting those you leave behind by generously and selflessly addressing one of the most difficult issues which we will all have to deal with: that is death. Whilst this is extremely uncomfortable to consider, there can be few kinder acts than actively taking steps to make your passing as stress-free as possible for those you leave behind; the people you care about most. They are likely to be in shock, distressed, and grieving at their loss. Making decisions at such a time, surrounding not just your funeral but events before and after it, can be tremendously stressful and traumatic. In supplying them with answers to most, or all, of those questions, you are taking away confusion and relieving them of untold amounts of guesswork. Therefore the aim of this book is to eliminate doubt and offer clarity.

There are some who will consider a book and a subject matter such as this not worthy

of their consideration. In taking that stance, they are effectively not prepared to give thought to those left behind or to the ensuing trials which may accompany their passing. The unwillingness to face the subject of death, which is the greatest inevitability of one's life, could be seen as indifference for those who are, apparently, their 'nearest and dearest'. Equally, assuming an air of apathy and leaving someone else to deal with matters could be seen, not only as irresponsible, but gives little consideration to the state of grief that their 'nearest and dearest' will be in. Anything that any of us can do to ease some of that distress is not only sensible but highly commendable.

As previously mentioned, this book is not a Will, and the contents and requests you make within it are not legally binding. However, hopefully your executors, and those you leave behind, will be happy to honour and feel morally obliged, to follow these Last Orders as far as practically possible. Executors sometimes have to make difficult and controversial decisions, so if the content of this book, and the answers you supply, can do anything to ease that difficulty, and enlighten others as to what your Last Orders were, then it could ease a lot of unnecessary tension. Indeed, your executors are likely to be extremely grateful for the assistance you have offered in supplying the answers.

Before addressing the content of the book, it is important that you take the necessary steps, if you have not already done so, of protecting your loved ones and your assets, by making a Will. With today's complicated lifestyles, partnership and marriage break-ups, having a Will in place brings a level of certainty as to how your estate - that is your property, your finances, and your belongings - will be distributed after your death. Who receives anything, and to what level they do, is entirely down to the instructions and wishes documented in your Will. Equally important, and somewhat ironically, it seems that many people write a Will to ensure that certain people *have no claim* on their estate.

If you die and, for whatever reason, have not made a Will, your estate will be distributed according to the law which, in itself, may not correspond at any level with how you would have chosen to allocate your finances and possessions. Relying on the rules of intestacy (that is dying without a Will in place) to distribute your money can, at best, be seen as precarious, and at worst irresponsible. Intestacy brings many difficult issues to the fore; and whilst this is not the book to explore all the variances, there are

some myths to dispel. It may, for example, be worth noting that in England, without a Will in place, if you have children, the most your spouse can inherit from you is capped at £250,000 and thereafter, residue funds have constraints placed upon them. Also, a separated spouse, from whom you are not yet divorced, can make a claim on your estate whilst a co-habitee cannot. So, unless provision is made for a live-in partner in your Will, they could be homeless as well as partner-less within a few weeks of your death whilst your separated spouse makes their claim. Furthermore, your estate may be liable to pay Inheritance Tax which could have been avoided with some legitimate and proper tax planning.

There are a number of avenues you can take to make a Will from DIY Will kits, to companies which claim to specialise in Will-making and, of course, via a solicitor. Over-the-counter Will kits and downloadable versions are a low-cost option, which offer an unrivalled immediacy to the Will-making process. However, whilst they may be suitable in the most straight-forward of circumstances, you must be advised that if completed incorrectly, a sorry mess can ensue leaving part or all of the Will invalid which, in itself, can lead to expensive and stressful complications. The Society of Trust and Estate Practitioners, ([www.step.org/findapractitioner](http://www.step.org/findapractitioner)) a world-wide professional body which oversees trusts, estates and legacies, states that one of the most common mistakes in DIY Wills is that the Will-maker fails to cover for the possibility that the main beneficiary does not survive them. STEP has collated many examples where the results have been, in their words, “disastrous”.

Similarly, there are companies which purport to specialise in Will writing, and which may, on the face of it, appear to be a convenient way to make one’s Will as consultants visit potential Will-makers in their homes. However, according to the Law Society, ([www.lawsociety.org.uk](http://www.lawsociety.org.uk)) the public are being exposed to “unregulated, unqualified and uninsured Will writers” when using some of these companies. Some advertise low-cost Wills, particularly in local newspapers, enticing prospective clients who find, once hidden charges such as Will-storage costs are added, end up with a ludicrously expensive bill. This can actually end up being costlier than using a bona-fide firm of solicitors, some of which do not charge for Will storage at all. It has also been found that some Will-making consultants have gone so far as to appoint themselves as executors to clients’ Wills, which can, in itself, be highly lucrative for the consultant.

Such practice is far from rare. It should also be noted that some of these companies are lacking in professional indemnity insurance, so you are unlikely to be offered any form of redress if a Will has been incorrectly drafted. According to the Law Society, solicitors have collated many cases of people who have “turned to them for help after being left with what can only be described as nightmare Wills by Will writers, many of which are not worth the paper they are written on.”

Sadly, and crucially, errors which are made in either of the aforementioned processes are usually only discovered on application for Probate, when it is too late to resolve them. In such circumstances the Will would then be deemed to be useless and the law would have to decide how your estate would be distributed. Therefore, if you have already chosen to make your Will with either of the above processes, it is strongly recommended that you get it checked by a solicitor or a member of STEP whilst you still have the ability to remedy any mistakes which could create problems for your loved ones in the future.

Having looked at two of the options for making your Will, and with all things considered, there really can be no better solution than consulting with a solicitor for a professional, water-tight Will which leaves nothing to chance. Solicitors are legally qualified, robustly regulated, and are covered by insurance for the rare occasion when some form of recompense is required. So, they have the advantage of having all angles covered, as indeed will you, having made the wise decision to entrust a professional to deal with your valuable assets.

In spite of this appearing, on the face of it, to be the most expensive option in monetary terms, it could and should ultimately save your beneficiaries time – inasmuch as the Will should receive Probate without any difficulty; money – if your solicitor has advised you on Inheritance Tax - and most importantly, should save an inordinate amount of stress from the muddle that can ensue from some of the other Will-making options.

It may be useful to note that there are certain times annually, when solicitors offer promotional Will-making campaigns to incentivise us all into making our Will. There is an annual campaign organised by Will-Aid which runs for the month of November,

when participating solicitors can draw up a new Will, oversee an existing Will, or even add a codicil (an amendment to an existing Will). In doing so, the solicitors waive their fees and invite you to donate it to a Will-Aid charity instead, ensuring funds are raised for exceptional work throughout the world. For further information and participating solicitors visit [www.willaid.org.uk](http://www.willaid.org.uk).

If you are over the age of 55 and are prepared to make a donation in your Will to their charity, Cancer Research UK will pay for a standard Will to be drawn up under their Free Will Service. The amount you choose to donate is discretionary. For further information on the scheme you may wish to visit the website [www.cancerresearchuk.org/legacies](http://www.cancerresearchuk.org/legacies).

Clearly the complexity and size of your estate will, more than likely, determine which Will-making avenue you choose. Someone with three ex-wives in tow, and children scattered liberally throughout the country, will have different priorities and needs to a single, childless person, and the cost of tailoring one's Will to encompass such differences will vary accordingly. Whichever option you choose, it is important that you review your Will from time to time to ensure that its content is still relevant. It is recommended that this is done around every five years, or when your circumstances change.

When making a Will, you will need to choose executors, who may or may not be beneficiaries. They will carry out your wishes and administer your estate in line with your Will and the law. Most people choose to have two people they know well as their executors (although up to four is permissible). What is important is that you choose executors who are trustworthy, morally sound, have the time, the skills and the wherewithal to deal with the myriad of problems which can arise and who, most importantly, are happy to take on the responsibility. Equally important, and rarely commented upon, is the need for your executors to have some kind of rapport; there is little to be gained in appointing two people who find it impossible to agree on anything. There can be significant and sometimes difficult decisions to make surrounding your estate so a meeting of minds is crucial. There is also a lot of documentation to deal with, so your executors should be used to administrative work. Finally, they should also have a level of integrity which ensures that, as much as is practical, the wishes stated

within this book are adhered to.

You may wish to appoint your solicitor to act as your executor and there are many advantages in doing so. A solicitor should bring a level of expertise to the administration of an estate which may be helpful if your Will is particularly complex or contentious, or which could overstretch the skills of a non-professional executor. Similarly, a solicitor is likely to be highly experienced in liquidating estates, and should know all the procedures to recoup money due to the estate – not least from the taxman. Finally, and importantly, a solicitor will release the non-professional executor from being liable for any mistakes which are made during the course of settling the estate. You should, however, be aware that a non-professional executor will have limited control over the administration of your estate if a solicitor is chosen as joint executor. It can also prove costly, so you may wish to check the rates your solicitor will charge. By contrast, non-professional executors can only charge your estate for out-of-pocket expenses, not for any of the time they spend during the course of the administration.

Some solicitors may lack the ‘personal touch’ which is highlighted and required in the following pages, so it is important that they familiarise themselves with the more personal aspects of your life. This can be resolved simply by ensuring this book is completed and ensuring your solicitor, if an executor, has a copy. There are numerous excellent websites and books which address the role of an executor and the responsibilities entailed in administering an estate *after* a death, so this book will not repeat them. The fundamental difference is that *Last Orders* seeks to attain answers to pertinent questions *before* death takes place.

There are many different aspects surrounding death covered in the following pages on a wide variety of subjects. Some observations and questions have specifically been included in an attempt to encourage you to think about issues which you may have, up until now, avoided. Indeed, one of the book’s chief aims is to prompt you into seeking specialist advice in any area you feel is necessary and relevant to you. This book, no matter how well-intentioned, cannot address all the issues in depth, nor take into account all the vagaries of every person’s circumstances. So, if you are in any doubt about any of the topics raised and feel you need specialist advice, it is strongly recommended that you seek further guidance in any of the specific fields.

When reading the following sections, you will read some thought-provoking questions. These will need answers from you, about you, about - not least - the funeral you would wish for, the distribution of your belongings and all aspects which will need to be addressed after your death.

Wherever there is a question mark followed by a grey box, complete it as necessary. It is advisable to use ink or a ballpoint, using block capital handwriting, and sign and date the last page. Notes have been inserted in boxes for assistance, offering background information and suggestions.

Please be aware that some questions listed are difficult to address. They are even more difficult to answer, but those answers will assist hugely in ensuring that your last requests are known and carried out to the letter, which is the ultimate aim. Not least, by giving clear answers you will have contributed greatly to making your passing as peaceful as possible for those remaining.

You can complete as little or as much of the book as you wish and the choices you make will, in itself, demonstrate to your executors the issues which are important to you. For example, you may not wish to answer questions about certain aspects of your funeral, but may merely wish to state your preference for the music which is to be played. Or you may wish to let it be known, in the Goods and Chattels section for example, that the picture that is currently above the fireplace with the tatty frame was actually painted by your great, great grandfather, that Dorothy at number 23 has a spare set of keys to your house and that, in the Pets section, your cat is allergic to chicken.

In answering any of the questions please bear in mind that it is not sufficient to say that a partner knows this or X knows that. Consideration should be given to the emotional state that a partner or X may be in. Additionally, there must be ample information in case a situation arises where neither a partner, nor X, is available.

The format of the book has been kept simple. The sizing of the pages ensures it is easy to write on, with sufficient space to write your response. Throughout the book there

are pages which have intentionally been left blank for any additional information you may wish to supply. If amendments or additions are made at any time, you may wish to date any alterations so that it is clear which is your preferred answer.

As with making a Will, it is important to review the content of the book from time to time to ensure that it is still a true representation of your wishes. There are several blank pages at the back for your own notes and additions. Finally, once the answers have been completed, (and it need not all be done in one sitting), it is crucial that you tell your executors where to find this book.

