



INFORMATION BOOKLET

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We have a combined 20+ years of experience

We only offer the time you want, the expertise you need, the quality personal service you desire

We many 5* reviews that you can read on Yell, Facebook and Google



PREPARING FOR YOUR WILL CONSULTATION

Our professional Will drafting service reflects a high quality personal service coupled with honest, reliable and clear advice tailored to your needs. Our consultants have been trained in and have years of experience in conducting Will consultations. They make the consultation a simple, straightforward and informative experience, with much positive feedback from clients.

Preparing for your appointment:

a) **Executors** – You will need to name at least 1 executor. (The role of an executor is explained fully on page 3) It is recommended that you name 2 executors if possible and you can name up to 4. They can be full executors or you can name them as substitutes so they will only act if one or all of the full executors cannot or will not act.

b) **Guardians** – If you have children under the age of 18 yrs. then you will need to appoint guardians over them in your Will. (See page 4 for a full explanation of the role of a guardian(s)) It is advisable to think of more than one choice in case your first choice guardian is unable or unwilling to take on this role.

c) **Legacies** – Are there any specific items that you want to gift to someone? Often this can include a wedding ring to a daughter or maybe £1000 to each grandchild.

d) **Gifts of residue** – This part of the Will covers everything that is remaining, after the executors have –paid off all debts, paid for the funeral, paid all testamentary expenses and given or paid all legacies. Usually this part of the Will passes to the spouse/partner first and then on to the children. This part of the estate is dealt with in percentages so that as the estate increases and decreases over the years everything remains accounted for in the Will. (If the Estate increases substantially then it is always worth contacting to ensure that no further advice is required)-

We will need the full name and address of all executors and guardians. We need the full names of all beneficiaries. If the beneficiary is a friend, we will need their address details too.

EXECUTORS & TRUSTEES

- Executors are the people appointed in your Will who will deal with your financial affairs after your death:

- They will need to locate the Will. It makes sense to tell your executors that they are the executors, where the Will is being kept and ensure that they can get quick access to it.
- They will need to locate your assets – including bank & building society accounts, life insurance policies etc. It makes sense to compile a list and keep it up to date.
- They will need to distribute any items in accordance with any directions in your Will, and then sell the rest.
- They will need to distribute the cash in accordance with the instructions in your Will.

- When money is being left to children under the age of 18 it will be held in Trust by Trustees who are appointed in your Will.

- The Trustees are usually also the Executors, though they can be different people.

- There are options that can be detailed in your Will that will govern the way the Trusts is set up and run;
-at what age children receive the Trust Fund, when, and under what circumstances, money being held in the Trust Fund can be used for children's benefit, whether money can be made available for Guardians.

- You can choose what powers the Trustees have (and don't have) while they are looking after the Trust Fund.

- In choosing Executors and/or Trustees you should consider:

- Age – will they be able to cope with the work involved in realising your estate? Are they likely to survive to the end of the Trust?
- Location – will they be able to deal with the logistics of selling and/or clearing a house, for example?
- Finances – Do they have the skills to look after and invest a potentially large sum of money? They will be able to take expert advice but will still need to make decisions based on that advice.
- Moral issues – do the Trustees have the same outlook on life that will mean that they agree to spend money on your children in the same way that you would have done?

GUARDIANS

- Everyone who has children under 18 should appoint Guardians to look after their children in the event of their untimely death. For this reason it is more important that parents of young children make a Will than elderly people.

- Guardians are appointed by someone who has parental responsibility for a child – and the appointment passes on parental responsibility.

- The birth mother always has parental responsibility. The father only has parental responsibility in the following instances:

-if he was married to the birth mother at the time of the birth – or subsequently marries her

-if he was awarded parental responsibility either through a parental responsibility agreement with the birth mother, or through a court order.

-if the child was born after 1st December 2003, if he is named on the child's birth certificate.

- Unmarried fathers of children born before 1st December 2003 do not therefore have parental responsibility. If the birth mother wants the natural father to look after their child after her death, she must make a Will to appoint the father as Guardian.

-If everyone who has parental responsibility has died, the local authority will have parental responsibility and be responsible for care of the child – which may be with relatives, or foster carers or in a residential home.

- Guardians will be responsible for looking after children until they become 18. In choosing Guardians you should consider:

■ Age – will they be able to cope with bringing up very young children or be able to control children in their teenage years?

■ Location – will your children have to move school and be separated from their friends?

■ Finances – will they be able to accommodate your children? Trusts can be set up in your Will to provide income and capital for your children's benefit. Further provisions can be made for Guardians.

■ Religious/moral issues – do the Guardians have religious or other beliefs that are compatible with

SECURE STORAGE AND AFTERCARE

It is very important that your Will is kept safe and up to date. The document needs to be protected from fire, theft and damage. It is also recommended that you contact us to have a review of your Will(s) every 3 years. This is partly because your circumstances may have changed but also because annual changes in Government legislation, can mean that some of the initial advice we offered you is now not the best advice for you and your circumstances.

The majority of our customers thus choose to ensure that their Wills remain safe and that updates are kept more affordable, by choosing our Secure Storage and Aftercare Plan. The plan is very affordable.

Secure Storage and Aftercare Plan– Our secure storage service helps to protect your Will and other documents once they have been produced. The signed original version of your document(s) is kept in a secure legal document storage facility to protect them from fire, theft and damage which could otherwise destroy them and / or invalidate them. As part of this service, you will receive a bound copy of your Will(s) to keep at home for reference purposes. Many Wills upon death cannot be located and so they cannot be executed but with our secure storage this is not an issue because your details will be entered onto a national database for Wills called 'Certainty' so that should your executors for any reason not be able to locate your Will(s) they will be able to find it via this database. As an add on to this service you will receive a 20% reduction off the price of a new Will whenever you need to update it.

Single Storage only - £30 p.a.

Mirror Storage only - £45 p.a.

Prices are correct as of 01/03/2024

LASTING POWER OF ATTORNEYS

Sadly we can become unable to manage our own affairs at any stage of life through either, an accident, physical ill health, the onset of mental illness or simply old age. This may make the everyday routines of paying bills, managing a budget and making financial decisions difficult and stressful, and in some cases impossible. In view of the fact that incapacity may be due to various circumstances and is not dependent on age or other 'foreseeable' circumstances then it makes sense to say "**Prevention is better than cure**".

This is a separate document to the Will. It enables you to make the choice as to who you trust to look after your affairs for you if you cannot care for these things yourself. **Without this document there would be a lengthy and costly legal process.** Bear in mind that if this document is needed then at this point you will be mentally ill and needing care thus meaning that your family would already be facing the emotional turmoil that such circumstances would cause. The last thing they would want adding to their distress at this point would be legal fees and a lengthy legal process. These documents protect your family from this happening.

There are two different types of Lasting Power of Attorney:

Lasting Power of Attorney – Property and Financial Affairs – allows you to choose an Attorney(s) to make decisions about how to spend your money and the way your property and affairs are managed. Once registered and unless you have put a restriction on it, this type of Lasting Power of Attorney can be used by the person(s) you have appointed straight away.

Lasting Power of Attorney- Health and Welfare- allows you to choose an Attorney(s) to make decisions on your behalf relating to your personal healthcare and welfare including decisions to give or refuse consent to treatment on your behalf and deciding where you live. These decisions can only be taken on your behalf when the Lasting Power of Attorney has been registered and you lack the capacity to make these necessary decisions for yourself.

It is particularly recommended that you have this document in place if you are over the age of 50 and / or own property.

SAVING YOUR HOME FROM CARE COSTS

Since the introduction of charges for care for the elderly there has been a large amount of irresponsible comment in the media and by vendors of financial schemes and products regarding the avoidance of such charges.

The harsh reality is that the government drafted the National Health Service and Community Care Act 1990 in the knowledge that attempts to circumvent it would be made – and guarded against them.

First and foremost, the local authority is empowered to disregard, without limit of time, any transaction that they consider as “self deprivation”.

Secondly, any change that transfers the ownership of your home, robs you of your security and can result in disaster. Giving your home to a child, is often quoted as being the ideal solution, BUT –

- Gifting the property, but continuing to live in it, is not a “true gift” in law unless you pay a full market rent.
- From the date of the gift, it will not be the primary residence of the owner, and will therefore qualify for Capital Gains Tax on any increase in value.
- If your child becomes involved in bankruptcy, **your** house will be one of **their** assets to be claimed in the legal proceedings.
- If your child dies before you, **your** house will be part of their estate and go to their beneficiaries.
- If your relationship with your child breaks down, your ability to remain in your house would be prejudiced.
- Income Tax on the rental value of your house will be payable every year.

Clearly, these factors make gifting a very risky and expensive affair, particularly as only one in six of us actually go into care. **However there are steps that you can take, which are perfectly legal, and severely limit the amount that can be levied upon by the local authority.**

We adjust the ownership of the house to a Tenancy-in-Common, so that husband and wife own one-half each. Then each Will gives the deceased’s half of the house to a trust which permits lifetime occupation by the survivor.

This limits the assessable value to half of the house, less the minimum threshold. As an example, in the case of a house worth £100000, the effect (in round figures) would be:

| | Without Provisions | With Provision |
|---------------------|--------------------|----------------|
| Property Value | £100000 | £50000 |
| Less threshold | £20000 | £20000 |
| Maximum Levy | £80000 | £30000 |

In the example, this, perfectly legal and acceptable, procedure saves the eventual beneficiaries **£50000** and carries none of the risks associated with other schemes.

Candid Wills will be happy to give a fuller explanation of these issues to you upon request.



This booklet was produced by Candid Estate Planning Ltd.

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WE ARE MEMBERS OF THE INSTITUTE OF PROFESSIONAL WILLWRITERS AND THE SOCIETY OF WILL WRITERS

- The Institute of Professional Willwriters (IPW) is a professional body, established in 1991, consisting of and representing the Willwriting profession.
- The main aims of the Institute are :
 - To set and maintain high professional standards for the Willwriting profession.
 - To increase public awareness of the skill and integrity of it's members.
 - To promote the concept of Willwriting both to the general public and to corporate bodies.
 - To ensure that the public is protected from unqualified and unregulated practitioners.
- Membership of the Institute is open only to those professional Willwriters who pass the IPW Entrance Examination and agree to be bound by the IPW Code of Practice..
- IPW members must hold Professional Indemnity Insurance cover to the value of £2.5million for any one claim through the Institute's own, or another approved, insurer.**
- IPW members are subject to strict rules governing standards and conduct. Any member in contravention of these rules can be subject to a disciplinary hearing and, if found guilty, can be expelled from membership of the Institute.
- Being a client of an IPW member ensures that you will receive a comprehensive, professional service of the highest standard. You will also have the peace of mind of knowing that your consultant's ability and conduct are regulated by the IPW.



This firm is compliant with the IPW's code of practice



This firm is compliant with the Society of Will writer's (SWW) code of practice