

Six common misconceptions about Wills and probate



There are strict rules surrounding Wills and the administration of estates after a death, meaning that relying on some common beliefs could cause problems for your loved ones.

We take a look at some common misconceptions and what the true position is.

My spouse will inherit everything if I die

If you die without making a Will, then the Rules of Intestacy will govern who inherits your estate. If you have children, these rules provide that your spouse will inherit all of your personal possessions together with the first £270,000 of your net estate. The remainder of the estate will be split into two, with your spouse receiving one half while your children share the other half equally between them. This could mean that your spouse inherits substantially more than your children, which might not be what you want to happen.

Getting married will not affect the provisions made in my Will

If you marry, your Will automatically becomes invalid (unless you have made a Will specifically in contemplation of your marriage) and your estate will pass under the Rules of Intestacy. It is therefore important to make a new Will if you marry.

I can make alterations to my Will provided I initial them

This is not the correct way to alter your wishes and any amendments made in this way will not take effect. It is often best to make a new Will if you want to change some of the provisions. The new Will should state that it revokes all previous Wills.

Alternatively, if you want to make only a minor amendment, you could consider having a codicil drawn up and signed and properly witnessed then attached to the Will.

If I die, my family can decide who will look after my children

If you do not make a Will specifying who you want to be your children's guardians, it will be for the court to decide who will look after them. Even if someone steps forward to take on this role, the court may choose someone else.

If you make a Will, you can set out who you want to act as guardian and also appoint trustees to look after any money you are leaving your children until they are at the age at which you would like them to inherit.

My home will pass to my spouse

What will happen to your home will depend on the type of joint ownership you have. If you own it as joint tenants with your spouse, then they will automatically own it, should you die. If you own it as tenants in common, then your share will pass in accordance with the terms of your Will or the Rules of Intestacy. This could mean that your spouse could be forced to leave the property if your share passed to someone else.

Making a Will is complicated and expensive

Making a Will can be quite straightforward and need not take long. It can also provide the peace of mind of knowing that you have provided for your family, should anything happen to you.

Writing a Will is generally inexpensive. If you do not have a Will, there is an increased risk of a dispute arising after your death. If your executors are forced to defend legal action, this could be extremely expensive and drain your estate of funds.

If you would like to speak to Helen Algar contact Suffolk Will Services today by email to info@suffolkwillservices.co.uk or by telephone 07415 135449 or 01473 808499.