

# Humphries Kirk Solicitors



# Chris Keenan



Humphries Kirk  
40 High West Street  
Dorchester  
DT1 1UR

[c.keenan@hklaw.eu](mailto:c.keenan@hklaw.eu)

01305 251007

# Should I make a Will?



# You should make a Will

*“So you have the power to decide”*

- Who receives what
- Which relative or friend or charity is to benefit
- Who receives your possessions e.g. jewellery, collections, medals, etc.

# Why you should make a Will

*“I am not married but we have been together many years and it will all go to my partner”*

- **Not so** – it depends on many factors but probably your partner will get nothing



Set out your wishes in a WILL

# The Intestacy Rules



Not married with children =

- Children will inherit whole estate

Married with children =

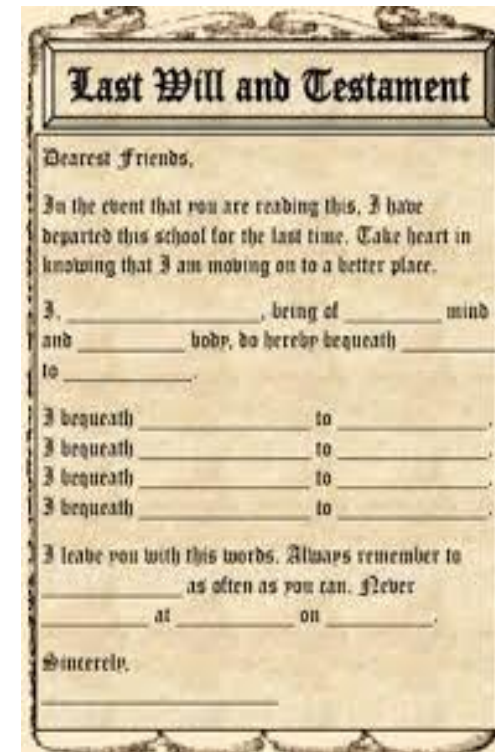
- First £250,000 & personal chattels to spouse
- Remainder of estate divided equally between spouse and children (or direct descendants)

Not married without children =

- Parents
- Siblings
- Step siblings
- Nieces/Nephews
- Aunts/Uncles
- The Crown

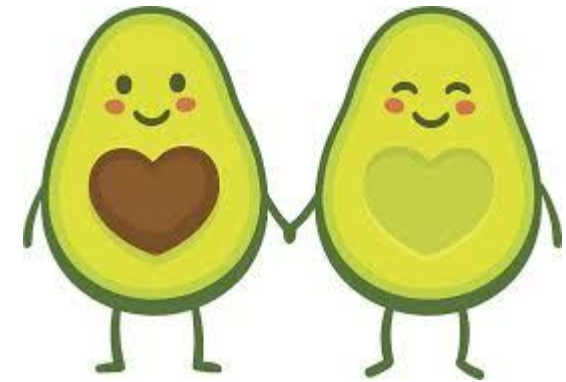
# Contents of a Will

- Executors
- Guardians
- Gifts of cash, property, possessions
- Residue of estate
- Funeral wishes
- Animals



# Financial Provision for your Partner/Spouse

- What do you own jointly?
- Will s/he marry/live with someone else?
- What about nursing home fees?
- Do they have other children?
- What other assets does s/he have?
- What might they inherit?
- What pensions will s/he get?
- Are there any family heirlooms?





# The Children

- What are their ages? Adult/Child?
- What is the age gap between them?
- Where will they live?
- Are they to be treated equally?
- What if any provision have you or others already made for them?
- Are they (likely to be) financially mature - and at what age?



# Pitfalls of a Homemade Will



- Not properly executed
- Does not deal with Testator's estate in full
- No substitute Beneficiaries
- Incorrectly named Beneficiaries or charities
- Ambiguous Will

# Trusts

Trusts can be used in a Will for the following reasons:

- To provide for children from a previous marriage
- Asset Protection
- To provide for disabled child or child with learning difficulties to avoid affecting state benefits
- To safeguard the estate assets if a child has addiction or money issues

# Inheritance Tax

- 40% of the value of the deceased's estate above the IHT free threshold (nil rate band)
- Nil Rate Band Discretionary Trusts
- Residential Nil Rate Band



# Reducing Inheritance Tax

- Charity - Potential reduction of IHT to 36%
- IHT Saving investment products
- Gifting of assets during lifetime
- Use of additional Nil Rate Bands if widowed and remarried



# Reasons People Give for Not Making a Will

*“I will wait until I am older”*

- Sadly some people do die young
- However young you are it is best to put your affairs in order

*“I have no one to leave it to”*

- Why not leave it to a charity rather than let the Law choose an unknown distant relative
- Or choose someone who has helped you

# Reasons People Give for Not Making a Will

*“It costs too much to make a Will”*

- Solicitors do make a charge but it is usually modest
- When you die a Will saves money as your wishes are known preventing messy and stressful time



# Keeping Your Will Up to Date

- Review every five years
- Or after any of the following:
  - Marriage
  - Divorce
  - Children
  - Moving house
  - Increase in wealth





# In Conclusion

*English law gives you the freedom to make a Will*

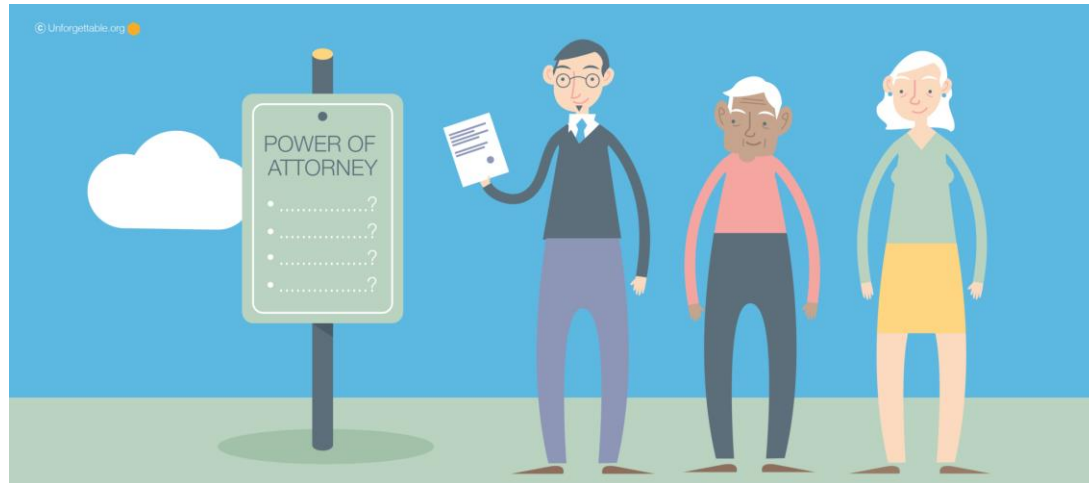
You should use this freedom so that you can decide who will receive all your money and possessions and be the guardian of any children and protect assets in trusts should the need arise.

- Yes – You SHOULD make a Will

**JUST DO IT.** 

# Lasting Power of Attorney (LPA)

- Legal Document allowing you to appoint someone to manage your affairs if you cannot do so



# Types of LPA

- Two types of LPA
  1. Property & Financial Affairs – the Attorney can deal with the Donor's property and money
  2. Health & Welfare LPA – the Attorney can make welfare decisions only if you lack mental capacity. You can also allow your Attorney to give or refuse consent for life sustaining treatment.

# LPA Property and Financial Affairs

- What does this involve?
- Can be any decision relating to anything monetary but will usually involve:
  - Managing bank accounts
  - Investment decisions
  - Dealing with a business
  - Dealing with financial assessment for care fees
  - Claiming state benefits
  - Buying / selling property



# LPA Health and Welfare

- What does this involve?
- Can be any decision relating to health or welfare:
  - Where you should live.
  - Discussing and agreeing levels of care (in cases requiring residential or nursing care).
  - Discussing/agreeing courses of treatment with Doctor/Dentist and other medical staff.
  - Giving or refusing medical treatment on your behalf.
  - End of life decisions including directions on resuscitation and artificial feeding (which can also be covered by Advance Decisions).



# Registration of LPA

- Your LPA must be registered with the OPG before it can be used
- Attorneys cannot make any decisions before registration
- No emergency registration procedure
- Fee is payable on registration
- When to register your LPA?

# What if I do not have an LPA?



- A Gamble!
- If you become unwell or permanently mentally incapable no person will have legal authority to act for you
- Court of Protection to be appointed as a Deputy



