

# 11 Reasons to Make/Update Your Current Will

By Gemma Young

# 1. You're Not Getting Any Younger

- You can make a will from the age of 18 (or from 16 if you're in the Army or Royal Navy).
- It is easy to feel immortal when you're young. You may have decades to go before your twilight years but that's no excuse for not planning.
- Sadly, we all know people who died young, suddenly, without warning and without a will.

## 2. Impending Danger

- Are you about to go on an extreme adventure holiday? Or visiting a part of the world that isn't as safe as the UK?
- Our solicitors regularly receive calls from people wanting a last minute will before they dash off somewhere exciting.
- It's a good idea to think about a will in these circumstances...and an even better one to plan ahead. So please don't leave it until a few days before jetting off. It pays to plan ahead.

### 3. You're Moving House

- Getting on the property ladder – buying a home of your own – is the big dream for most people. It's a big investment that comes with even bigger responsibilities.
- And one of those responsibilities is ensuring that your family will still have that roof over their heads in the unlikely event of you dying prematurely.
- This is one of the big 'will triggers'. Now you've bought a home you can't say you have nothing to leave your loved ones.

## 4. A Major Change in Financial Circumstances

- Not many of us will win the lottery but there are other ways of suddenly becoming much wealthier. A large inheritance or a promotion with big bonuses can also bring windfalls.
- And by the same token, you may also fall on hard times.
- Either way, a significant change in your finances is a big wake-up call when it comes to [wills and probate](#). If you swiftly become richer or poorer then it is time to make or review your will.
- Failure to do so risks leaving your will out of date and at risk from legal loopholes or technicalities.

## 5. Getting Married

- This is a hugely important event in anyone's life. You have made a legal commitment to take care of your loved one for as long as you both shall live.
- Your spouse has a legal status. The law recognises them as a key potential beneficiary should you die intestate (i.e. without a will).
- Marriage renders any previous will null and void. So you will need to make a new one (unless the will is written in contemplation of that marriage). And if you've never had a will, this is a key time to draft one.
- What about cohabitees? Long-term partners? Regrettably they have no legal status. The idea of so-called '[common law marriage rights](#)' is a complete myth so beware. There are signs that the law may be amended to reflect changing society but that has yet to happen.

## 6. The Birth of a Child

- Another huge, happy event and another important reason to make or update your will.
- You can leave bequests 'to my children' or you can name them in the will. There are pros and cons to either approach.
- By naming them you can be absolutely certain that each child will receive the bequest that you intend. But your will is going to need updating when any new offspring arrive. We can advise you to help you decide how best to word your will.

## 7. Separation or Divorce

- You will need to make a will (or change any existing will) if you separate and/or divorce. Until you complete your divorce, your spouse is entitled to inherit if you die without a will.
- Your relationship may be over, but they are still legally your spouse until you divorce. That makes them a potential beneficiary under wills and probate law...unless you specify otherwise in your will.



## 8. Remarriage Voids Your Previous Wills

- Getting hitched again? Review your will – otherwise you risk accidentally disinherit any children from your first marriage!
- As mentioned previously, marriage overrides any previous wills.
- And if you die without a will, your estate will go to your new spouse and their family – leaving any offspring from your first family with nothing.
- Remarriage is a really important time to think about wills, a crucial trigger so don't delay. Your children's future depends on you grasping the nettle and doing the right thing.

## 9. Death of a Loved one

- What would happen if someone very close to you suddenly passed away? Does your will take account of what would happen if they predeceased you?
- Who will inherit your worldly goods if the person you love most in the world is no longer at your side?
- It is a hard and painful question to have to ask yourself, but one day the unthinkable may happen. The sad and unavoidable truth is that none of us lives forever.
- An all-too-easy option is to keep putting off writing a will...but that is no way to care for those who matter most to us above all else.

## 10. Change of Executor(s)

- Who will administer your estate after you have gone?
- What if the person you previously named as an executor has died, moved away or – for one reason or another – is no longer able to discharge this important legal duty?
- Changing your executor(s) means updating your will. It is also a good opportunity to review other aspects of your will to ensure that it is still legally fit for purpose.

# 11. Impending Death

- Sir Ken Dodd married his long-term partner Anne just two days before he died. This enabled him to [bequeath his estate to her with no Inheritance Tax liability](#).
- Sometimes our solicitors are called out to help a dying client with a deathbed will. They may have just days or a few hours to live.
- And when the end comes, as it comes to us all, you will want to spend your last few hours in this world surrounded by the people who mean the most to you, rather than going through legal documents.
- Life does not always give us time to prepare for such moments. But it is better to have prepared in advance than to leave it until the final few hours.

# Lasting Power of Attorney

By Gemma Young

# 1. 1 in 3 of us will suffer with Dementia

Recently, the youngest man to be diagnosed with Dementia in the UK was just 23



## 2. What does it mean if you lose capacity without having prepared a Lasting Power of Attorney?

Who has the authority to “take over” and run your affairs?

No one. No even your spouse (unless you own assets jointly).

If you do not have an LPA in place, nobody can take over your finances, property or bills, or decisions concerning your health and welfare.

### 3. Requirements to make a LPA;

- You must be over 18
- You must have mental capacity at the time of making the application



## 4. Health and welfare (can only be used when capacity is lacked)

- Who will decide what are you will receive?
- What medical treatment do you want?
- Does the donor have a living Will (advance decisions)?
- Do you want to give your attorneys authority to give or refuse consent to **life sustaining treatment** on your behalf? Life sustaining treatment means care, surgery, medicine or other help from doctors that is needed to keep you alive, for example;
- A serious operation, such as heart bypass or organ transplant
  - Cancer treatment
  - Artificial nutrition or hydration (food or water given other than by mouth)

What are your dietary needs, daily routine, care needs decisions?

## 5. How will your attorneys act?

- Jointly?
- Jointly and severally?
- Joint for some and jointly and severally for others?
- Who to choose?
  - How well do you know them?
  - How well do they run their own affairs?
  - Will they act in your best interests?
  - Will they be happy to make decisions for you?

They must keep your finances separate from theirs

## 6. When do you want the power to start?

- Upon registration?
- Only if you lose capacity



## 7. Instructions and preferences

- Gifts to family and friends
- Donations to charity
- Can the donor afford to make these gifts?
- Do you want to pay you Attorneys?



## 8. Persons to be notified? Any objections

- You can let people know that you're going to register your LPA. They can raise any concerns they have about the LPA – for example, if there was any pressure or fraud in making it.
- **You can't put your attorneys or replacement attorneys here.**
- People to notify can object to the LPA, but only for certain reasons (listed in the notification form LP3). After that, they are no longer involved in the LPA.
- Choose people who care about your best interests and who would be willing to speak up if they were concerned.

## 9. Certificate provider

- The 'certificate provider' signs to confirm they've discussed the lasting power of attorney (LPA) with the donor, that the donor understands what they're doing and that nobody is forcing them to do it. The 'certificate provider' should be either:
  - someone who has known the donor personally for at least 2 years, such as
    - a friend, neighbour, colleague or former colleague
  - someone with relevant professional skills, such as the donor's GP, a
    - healthcare professional or a solicitor
- A certificate provider **can't be one of the attorneys.**

## 10. Court fee to register your applications?

The cost to register your LPA is **£82** (per application).

If you are in receipt of Means Tested Benefits or your gross annual income is less than £12,000 you may be eligible for a fee exemption or fee remission.

## 11. Protect your home

Do you jointly own property as "Joint tenants"?

Sever the joint tenancy to tenants in common so any future care home can only look at your half share of the property.

