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FIVE THINGS YOU MUST CONSIDER BEFORE MAKING A WILL

There are many circumstances you must consider before making a Will. Lots of these will be obvious such as who will your Executors be, who will your estate go to and who will be appointed as a Testamentary Guardian for your children. However it is also important to think about the following:

1. Step-children:

Blended families are becoming increasingly more common. Under the Family Protection Act 1955 Will makers have a moral duty to provide for step-children if they are being maintained by the deceased. This means if you do not provide for step-children that rely on you financially in your Will then they have a right to make a claim against your estate under this Act.

To avoid any doubt, if you are providing for step-children in your Will then you should name them specifically as your step-children as opposed to your children.

2. How you own your property:

There are two types of home ownership:

(a) Joint tenants. This is the most common form of ownership for couples and means the property automatically passes to the surviving owner(s) upon the death of the other owner(s) irrespective of what your Will states;

(b) Tenants in common. This means the proprietors own the property in shares. For example John Daniel as to a 50% share and Sarah Fisher as to a 50% share. Upon death the shares in the property pass in accordance with the deceased's Will.

It is very important to know how you own your property as this can have a big impact on how your property passes on your death.

3. Charities:

If you are planning on gifting any property to a charity it is important to obtain the correct name and branch of the charity and ensure the charity still exists. You must also consider whether the gift is intended to be used for any specific purpose.

4. Trusts:

If you have a Family Trust, this may also have an impact on your Will. The most important thing to note is that your Will does not apply to what your Trust owns. You and your Trust are two separate legal entities; you therefore cannot distribute Trust property in your Will.

You also need to consider whether your Trust owes you any money as any debts should be forgiven in your Will.

5. Testamentary Capacity:

It is obviously important to make a Will when you are mentally capable. If you put off making a Will or updating it, you run the risk of having diminished mental capacity. This can mean your Will is declared invalid and set aside. If this happens your Estate will either be distributed in accordance with a previous Will, or in accordance with the Administration Act 1969.

20 MINUTE FREE

**WANT to review your Family Trust structure?
THEN call us and take advantage of our 20 Minute Free interview**