# DO YOU HAVE A WILL FROM A HIGH STREET BANK?


Recent articles have appeared in the popular press about the high street banks offering Will writing services to their customers. Typically, the Wills were offered for a low price, (Eg. £75), or even for nothing. "Why would they do that?" you might well ask. Well, the banks would appoint their own trust company as "Executor" on the death of the customer. In addition, the Will is likely to be very simple, and therefore may not deal with an estate, as a customer really requires.

So nothing much would happen, until the bank customer dies. At that point, the family go to the bank to recover the documents, to find the bank must act as Executor, (as the Will states this) and this includes heavy fees for sorting out the estate administration. Sometimes, these fees are a percentage of the estate value. Eg 2.5% on an estate of £500,000 would be £12,500, and the estate need not be very complicated to sort out. They may even make a charge, to allow the family to take the Will away, for someone else to sort out.

In some cases, the banks have also offered storage facilities, where customers have been encouraged to hand over deeds and other important documents, to be held in storage by the bank.

At Kendal Wills we recommend that family and friends are appointed as executors in the majority of cases. If they don't wish to carry out the estate administration work themselves, they can obtain quotations from local firms, and make a choice as to who they use.

If you have a Will written by a bank, you might want to check to see if it appoints the bank as executor on your death?

## LOCAL PROFESSIONAL WILL WRITING SERVICE IN KENDAL AND SOUTH LAKES

**Specialists in** writing Wills, Lasting Powers of Attorney, Probate and Trusts covering Cumbria, South Lakes and North Lancashire.

"Our meeting with you, has helped us both get to grips with our situation, and you interpreted our wishes well."

MI of Carnforth, Lancashire

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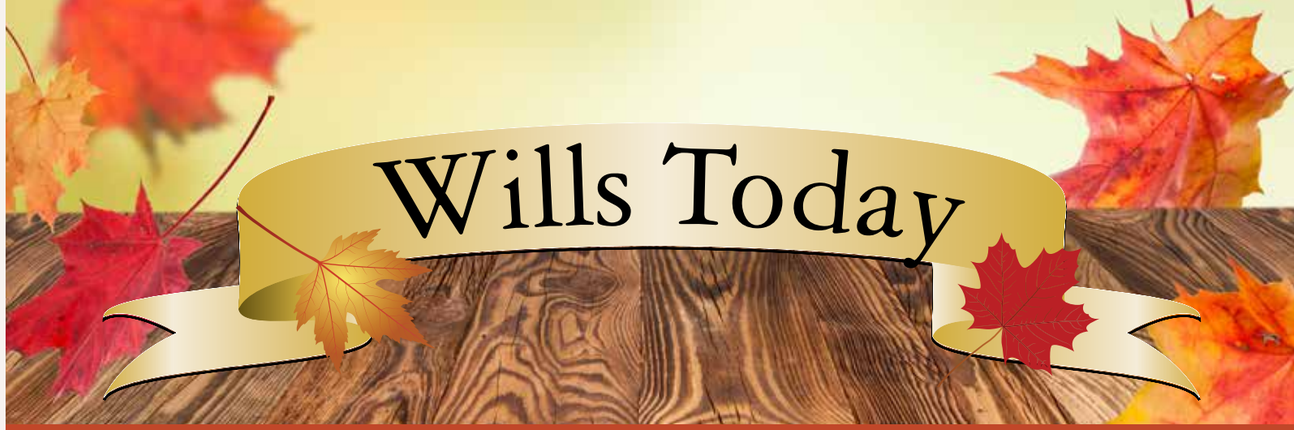
## WHY USE KENDAL WILLS?

Kendal Wills work to a fixed price menu of services so you know where you are at the start, so there are no nasty surprises. The prices are always kept highly competitive, and include free home visits, up to a 50 mile radius of Kendal. The company is not VAT registered and so this saves 20% on the final bill. If you require something more complicated than normal, we will advise you of the price before work commences.

LANCASTER WILLS KENDAL WILLS



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# FINDING THE RIGHT ATTORNEY TO ASSIST YOU WITH YOUR AFFAIRS


Harvey Jones, writing in the Sunday Express on 8th, July 2018 explains that there is an increase in the number of cases where people's finances have been mishandled. Investigations by the Office of Public Guardian are up from 1,199 to 1,729 last year. These figures do highlight the need to be careful when selecting attorneys to act for you.

The article explains how some attorneys have abused their position to steal money, failed to keep proper records, and over stepped their responsibilities.

If you suspect a case where this could be happening, you can report it to the Office of Public Guardian. Fortunately, such cases are still relatively rare, and the benefits of setting up these documents cannot be underestimated.

## IN THIS ISSUE:



LANCASTER WILLS KENDAL WILLS

**Member of the Institute of Professional Will Writers**
**Compliant with the Institute of Professional Willwriters Code of Practice**

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# DON'T LEAVE IT TOO LATE TO WRITE A WILL AND LASTING POWERS OF ATTORNEYS

As people get older that may think about writing a Will. They may also make Lasting Powers of Attorneys to look after their wishes if they lose mental capacity. However, some people may not bother. A problem can arise if they start to suffer from memory loss such as "Dementia" or early stages of Alzheimer's Disease. This can bring matters to a head. On such a diagnosis, they then want to set up such documents, with more urgency than previously. The question is, "Can they go ahead and write a Will and Lasting Powers of Attorneys?"

There is no problem in writing such documents. However, questions may be asked after a death, if they had capacity to write them. Advisers such as Solicitors or Will writers may be reluctant to work for clients with a diagnosis, because of a possible legal claim in the future.

If it can be clearly shown that the diagnosis of the illness was before the date the documents were produced, the legality of such documents could be challenged and undermined.

This is not a new principle, but it goes back to the case of Banks v Goodfellow of 1870 when clear criteria were laid down.

1) The person making the Will must understand the nature of the act and it's effects.

2) Understand what property they own.

3) Understand and appreciate the claims to which he or she should give thought to.

4) Have no disorder of the mind.

If a Will is very complicated, the person making it will require a higher level of capacity to understand it, rather than a very simple Will. It may also be said, that the person making the Will has been led to a certain course of action.

The message is simple, don't keep putting off writing such documents.

To find out more please call us on **01539 728020** or **01524 901000**

# ARE THE CURRENT INHERITANCE TAX RULES TOO COMPLICATED?

Regular readers will have seen our previous articles regarding Inheritance tax. In particular, the changes brought in last April 2017 with the new Residents Nil Rate Band. As we have said, this is a rather complex piece of legislation. It would appear the current chancellor Philip Hammond agrees, as he has asked the office for Tax Simplification (OTS) to review the tax, which is described as "Particularly Complex".

The rules for Inheritance tax were not simple before April 2017. Most of us get an allowance of £325,000 and there is no tax paid on transfers to spouses, although on the second death, tax may be due, if the survivor has assets of more than that figure. If you make gifts, you need to live at least seven years for the gift to be forgotten. There are also small gift allowances, and relief if you own a business or farm.

If on your death, you are liable to tax, it is a high rate-40%, on assets over the nil rate band, so it is well worth trying to avoid it!

David Cameron made a pre-election promise to increase the inheritance tax allowance to a million pounds! He was clearly concerned for home owners in the South of England where property prices have risen well above inflation. Even a fairly modest family home in the London area can sell for over this figure.


The new "extra" residents nil rate band currently gives an extra £125,000 of allowance to home owners, who give their property to their children or grandchildren. This amount will rise, to £175,000 by 2020/21, so with the standard allowance of £325,000, a couple will have a total allowance of £1million before inheritance tax is paid.

However, the rules are quite complicated. For example, if you have assets of over £2m the allowance is reduced. Furthermore, if you have certain trusts in you Will, you will not qualify for the allowance at all. This also applies if you have no children, or decide not to benefit family in your Will. Some might say that's unfair.

Consideration has also been given to people who have recently sold a valuable family home, and downsized, to make sure they don't lose the allowance, as the government did not want single people, and couples staying in large family houses to make sure they keep this allowance.

Because the rate of tax is high, at 40%, the new allowance is worth having. Currently at £125,000 each extra allowance is worth £50,000. So a couple can save £100,000 in tax.

Some critics have said, it would have been simpler just to increase the standard nil rate band from £325,000 to a new higher figure that would help more people, and be easier to understand.

So in conclusion, if you have total assets of over the standard allowance of £325,000 for a single person, or £650,000 for a couple, I advise you to seek advice legal advice to make sure you Will is correctly written to qualify for this allowance.