

Wills Today

KENDALWILLS

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Do you have a personal pension and are unsure of your options when you retire?

Many of us will have taken out such a plan, perhaps when changing employers or we may just have wanted to fund for our retirement. There are two basic types of pension. Firstly, there are "final salary" schemes, normally provided by an employer, where the benefits are linked to the employees final salary. These are generally recognised as the best type and are getting rarer as employers simply can't afford to fund them as required. However, here we will focus on "Defined Contribution" schemes where you pay in a defined amount, normally until you retire.








Since April 2015, the starting or youngest retirement age has been aged 55. If you pay for longer, or even just leave the fund invested, the fund will generally grow, and benefits should be better.

So what happened before April 2015? You could take 25% of the pension as tax free cash and the balance of 75% would normally buy an annuity which provides a guaranteed income for life. People with relatively large funds may have been encouraged to use "Drawdown" contracts which allow a regular income to be drawn up until age 75. Any income taken is taxable. At age 75 you had to buy an annuity.

Because of poor interest rates, annuity rates were also poor, so anyone buying an annuity was not always getting a great deal. This generally discouraged investment in pensions.

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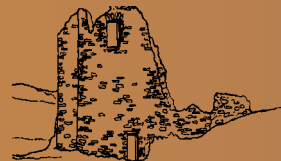
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Sir Bruce Forsyth leaves his £17 million estate to his wife Wilnelia and avoids Inheritance Tax

Few people, could have failed to notice the sad death of Bruce Forsyth recently, at age 89, which has been widely reported. Bruce was best known for his role in the TV series "The Generation Game" which ran originally in the 1970's on BBC 1 and later in the 1990's. At its peak the original series was viewed by 21 million viewers.

Sir Bruce had expressed concerns about Inheritance tax, which is charged at the rate of 40% on assets over the nil rate band of £325,000. He left everything to his wife Wilnelia. This means that no tax is payable at this time. However, when Wilnelia dies, there may well be a bill to pay. It is likely that Wilnelia will be encouraged to gift her assets to their children. Sir Bruce left six children and nine grandchildren. If Wilnelia makes a gift to one of the children, or grandchildren, provided she lives seven years, no tax is due on the gift. In this case it is helpful that Sir Bruce has chosen a younger wife.

How to choose your Executors?

I am sometimes asked "Who should I choose as my "Executors"? Well, this is a good question. It will depend on a number of factors.

Traditionally, Wills were written by Solicitors, for their clients, who would often appoint the firm as Executors in the Will, so they would pick up any estate administration work, after the death of the client. This can be a helpful situation, for example, if you have an elderly single person, with no close family. They will want to know their estate is going to be dealt with properly after their death. So what are the disadvantages of such arrangements?

Firstly, the solicitor is not a charity, and will charge for the work done. Sometimes, but not always, family members may feel such charges are excessive. If a house or property has to be sold, there is a danger the house may be sold relatively cheaply to move it on fairly quickly. The solicitor may not want a property sitting empty for a long period.

Increasingly, today, people are choosing family or friends to act for them. In some cases, this may be alongside a solicitor or in others completely independently.

It is normal to appoint a spouse firstly if they are not too old. It is also wise to appoint a second executor. If both husband and wife die together, a second executor will be needed. Typically, this might be a brother or sister. Failing brothers or sisters, we will be looking at children or nephews and nieces. An executor can also be a beneficiary, but it is wise to watch out for possible conflicts of interest.

It is helpful if the executor is confident in dealing with paperwork and administration, although they may prefer to hand the file over to a professional of their choice. If no professional executor is named in the Will, the executor can "shop around" and obtain a quote for the work.

Initially, it is a case of advising interested parties of the death, such as banks and building societies and valuations will be required. Once a full picture of the assets has been established, and documented, a "Grant of Probate" will be required, typically on estates of more than £15,000 in value. This is obtained through the Probate Office which is a branch of the Inland Revenue.



10 reasons why should young couples make a Will?

We often hear people say, I'm too young to make a Will; I am not planning on dying just yet!

Well here are some good reasons:



- 1 **Appoint guardians** – If you have children and both parents die but the children survive, you might want to state who you would like to look after the children.
- 2 **You decide what you want to happen** – Generally speaking, it is better that you decide yourself what you would like to happen to your assets, rather than someone else.
- 3 **Executors can assist widow or widower at a difficult time** – When a partner dies; you might not feel like dealing with a lot of paperwork. It can be helpful to let the executors assist.
- 4 **Couple may not have brought equal assets to the relationship** – You may want to reflect any previous gifts you have received in a Will.
- 5 **People may have children from other relationships they wish to benefit** – If they are married the spouse may inherit everything and if not the partner may get nothing.
- 6 **May want to leave specific gifts to people** – For example a man may want to leave his fishing equipment to a good friend rather than his partner.
- 7 **May have life policies that could go to the wrong people** – Sadly, people may realise they need life insurance, and take out a policy, only for it to pass to the wrong people on their death.
- 8 **Can be unclear where assets should go especially if a couple may not be married to each other** – There could be various options, parents, or brothers and sisters, partner or children. This could end up very messy.
- 9 **Parents may be legal beneficiaries not a partner where no children together** – Parents may have a greater legal entitlement on the death of a son or daughter than a partner. This can be complicated where a property has been bought with a long term partner.
- 10 **Help avoid family arguments** – There is nothing like a death in a family to cause a fall out. Even a legally correct outcome may not be the best one for the family left to pick up the pieces.

Why is the signing and witnessing of a Will important?



I am sometimes asked if a simple do it yourself Will Kit is sufficient? A quick internet search revealed such kits available from just £2.95. Provided the instructions are followed, it might work. So where is it most likely to go wrong?

Assuming all the details are completed correctly, and the person making the Will has full mental capacity, it is most likely to fail due to the signing of the document.

Firstly, some Wills are never signed and witnessed at all. Although, there was a document, it was put off, until it was too late. Sadly, if there is no Will, it is up to the government to decide where the person's assets go. It may also mean an out of date Will is used instead.

Secondly, if it is signed, a proper procedure may not have been followed. Is it dated? Do we know when it was signed? Assuming it was, are the witnesses independent from the testator, (the person making the Will). Very often, the testator will request family members to sign to witness the document, which is not wise, as they are not completely impartial, and often have an interest in the affairs of the testator. This would include a spouse or partner of a family member, even if they have a different surname.

Equally, anyone who benefits from the Will should not witness it, and an Executor of the Will would not be a good choice. So there are some problems to avoid!

As with any legal document, it is wise to try and avoid having mistakes and crossings out in the document. While these can be signed by the testator and witnesses it is generally better avoided.

It is also important that the document is signed by all parties at the same time and meeting, together. The testator should sign first, followed by the two witnesses.

Increasingly, questions are being raised after a death, about the validity and signing and witnessing of Wills, known as the "Attestation". It is therefore vital such errors as these above are avoided.

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Since 2015, at age 55, you can draw out the whole pension as cash. You may remember the pictures of expensive sports cars in the popular press. For most of us, this is not a recommended option, as you will be taxed on the pension, like earned income! However, it does demonstrate the options you have.

You can still take the 25% tax free lump sum. The big difference now is that you can leave the 75% invested, but draw off regular payments to support your retirement income, and the remaining fund should continue to grow. In difficult economic times however, the fund may fall in value and any regular withdrawals will reduce the fund value further.

While this will not give the guarantees of the annuity, it is an option to consider, especially in the current low interest rate environment. As

before, the regular income will be taxable, along with other income you may have.

The problem since 2015 is that the public require financial advice, more than ever before. While relatively wealthy pension investors are likely to pay for financial advice, more ordinary customers may not always understand their best options.

If you are considering drawing a pension, I strongly advise you seek independent financial advice. This could be through an Independent Financial Adviser. At Kendal Wills we deal regularly with Financial Advisers, so we may be able to recommend one in your area. Alternatively, the Citizen's Advice Bureau offer access to financial advisers free of charge through the Government Pensionwise scheme at: www.pensionwise.gov.uk

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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.

See our new Video on our website about Wills at: www.kendalwills.co.uk

Ask us your legal questions and if we don't know the answer we will find out!

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