

WRITING A LETTER OF WISHES

We all know how essential it is to write a clear and unambiguous Will, however, what about the personal areas of your life which can help those who you leave behind to manage your affairs, or even to deal with your funeral arrangements? This note is designed to offer some ideas with regard to possible headings for your final instructions.

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1. OVERVIEW

Everyone should write a note to help their nearest and dearest with regard to arrangements after their death. Nowadays, many Wills simply place the whole estate into trust, thus leaving the trustees and executors with a free hand to distribute the estate. This note is designed to provide some ideas to help you when writing your own letter of wishes.

2. ADVANCED CARE PLANNING

Advanced care planning can be done at any age, however, a good time to consider this is when you are undertaking your lasting powers of attorney.

Make sure you review care and nursing homes in your region and give your attorney's a note indicating your wishes for same. Planning for the worse does not mean it will happen! Visit local care homes and getting a feel for the style of care you prefer will help your family hugely should the need for care be sudden. My own parents moved from living in their Spanish Flat to a residential home in the UK inside a month. That was not nearly enough time to properly research alternative care homes for them and it is very much more difficult to change a home after you are already a resident.

Many people may wish to remain in their home, however, from a practical perspective is your home big enough? You have to have sleeping accommodation and recreational areas for your carers particularly if you need 24 hour care.

You may be making regular gifts to your beneficiaries and want these gifts to continue should you become incapacitated.

3. A LETTER OF WISHES (LOW) ATTACHED TO A WILL

A letter of wishes is not a legally binding document, however, it can be very useful in a number of areas. Many clients have multiple letters of wishes to cope with different needs.

Certainly have a LOW attached to your Will, but I like to keep a copy in Word so it can be updated easily.

Here are some of the possible directions you may wish to give.

3.1 Gifts On First Death

Under the new transferrable nil rate band provisions for inheritance tax (IHT), many married couples will write their Will to give all of their estate to their surviving spouse. They can do this by simple gift or by trusts such as the Immediate Post Death Interest trust (IPDI).

Where this happens, you may still wish certain people to have gifts on your death so you would ask your surviving spouse to make these on your behalf. By doing this (if your spouse survives you by at least 7 years) there should be no IHT on the gifts.

A possible wording might be:

I would be very grateful if (surviving spouse's name) would on my behalf make some small gifts as follows:

- Name, relationship and address and amount
- Name, relationship and address and amount
- Name, relationship and address and amount

You may like to add in a note regarding IHT, (i.e. whether the gifts are free from IHT) if you do, see trusts below.

It is also common for clients to set a fixed sum in their will for smaller bequests and for the specifics to be handled by the letter of wishes (so you can change your mind without re writing your will).

3.2 The Reason For No Gifts Being Made

It is very important to explain why certain people may not be benefiting from your estate. So for instance:

I am conscious of the fact that under the terms of my Will I have made no provision for the (child / spouse's / relative's name). I do not wish (name) to have any benefit from my estate (give a reason) so would ask my trustees not to make any distribution to this person. Or you might say, I am happy for my trustees to distribute £10,000, but no more, to this person.

Remember, Wills can be challenged so it is important to make it clear why some people who may feel they are entitled to your money should not receive same. Ideally these statements should be in your Will but a LOW has the benefit of not being published.

3.3 Confidential or Not?

I am executor on many Wills where the letter of wishes clearly state that the information within them should remain confidential. Whilst this does cause the odd problem (in that one cannot explain why Johnny cannot have cash until he is 30 due to him being immature in the eyes of the deceased client) it does provide some protection for the trustees and executors when attacked by people who are not getting what they want.

Decide whether the LOW is to be confidential at outset and word the LOW accordingly.

3.4 Charitable Giving

It is common for clients to set a fixed sum in their Will for charitable giving and for the specifics to be handled by the letter of wishes (so you can change your mind without re writing your Will).

Many solicitors now advise against specifying charity names within a Will for fear of harassment of the executors. A private and confidential letter of wishes can prevent these problems occurring.

3.5 Instructions To The Guardians Of Your Children

If you have under age children, your Will should state who you want your guardians to be, however, it does help the guardians if they know how you want the children raised. So, for instance:

- If funds allow do you want the children to have a private education?
- Have you any religious preferences for the children's upbringing?
- Boarding or day school?
- At what age would you like your children to be given any bequests under the guardian's control?

3.6 Personal Effects

It is important to direct where the family heirlooms go and to state who gets what (this stops a lot of arguments after the event!). I have seen everything from long lists to a short note stating each item is labelled on the back.

3.7 Unusual Items Such As Guns

If you are a gun owner then tell your trustees where the keys are to the gun cabinet and give them details of where to find your local police licensing authority. It is all pretty straightforward but can be daunting for non-shooters. You may, indeed, have a preference for who gets your favourite gun.

3.8 Pets

If you have beloved pets explain in your letter of wishes how you want them dealt with. If you wish someone to look after them then talk to the person and ascertain whether you should provide funds for the pet's upkeep and wellbeing. This is best done by lump sum as ongoing payments can be difficult to administer.

3.9 Your Digital Estate

The law may not have caught up yet but most people have a digital estate. There was an interesting case recently where a chap in his mid-80's had taken to using an online poker website and had accrued £350,000 in winnings which no one knew about!

Your digital foot print may be small or large but you must tell your trustees and loved ones where to find your passwords, what websites you have and any investments which are digital only. There is software which should safely record your passwords etc, I use <https://www.lastpass.com> just remember to leave a note as to the master password!

Or you can simply keep everything in a password protected Word or XL document and tell your executors / trustees where to find it and what the password is.

3.10 Pearls of Wisdom For Your Beneficiaries Or Children

Again, this will not be seen until you are dead, so you have your chance to thank people or to recommend a celibate life to your offspring or whatever you wish.

4. INSTRUCTIONS FOR YOUR FUNERAL

Here we are indebted to one of our clients for their personal insights after many years as a celebrant.

You can write a separate note (or include this within a main letter) to help your executors plan a funeral which you would be happy with. Many clients say, “I don’t care, they can do what they like” but this is not helpful! When someone dies the people with the job of sorting out the funeral and estate will be in mourning and likely very upset. They have enough on their plate already without having to remember vague conversations which took place months or even years before the need for action.

It is of huge help to your survivors if you can specify your wishes. The following is some of the information they may need:

4.1 Buried Or Cremated?

This is often stated in the Will, so check if it is in yours. However still make this clear. If cremated, where do you want your ashes spread? Any special wishes for the ashes (i.e. sent into space, buried with your spouse, if that person has a grave)?

If buried, then is this in your spouse’s grave/or family mausoleum, or do you have a plot. If neither is true, then you need to think where you wish to be buried. For example, this could be a woodland burial plot. If relevant any particular wishes with regard to headstone.

4.2 What Type Of Coffin?

There are also sorts of choices - posh, cheap, or environmentally friendly coffin? Whether you require embalment or an open coffin will depend on your tradition.

4.3 Chapel Of Rest,

This is where it is normal for relatives and friends to view the deceased however in certain religions this might be at home.

4.4 Funeral Director?

Choosing the right funeral director is important. Talk to friends and get local background as to who are the best in your area to meet your needs. Often the smaller independent company give the best service.

4.5 Type Of Service

What type of funeral service do you want? It will be the first question the funeral director will ask. Every type of service is available from a faith service, i.e. whatever religion you follow, to humanist, etc.

4.6 Celebrant

Do you have a named individual you wish to conduct the funeral ? If you are a regular attender at a particular place of worship you may be able to specify a name, however, priests change so either keep this updated or make it flexible.

There are some excellent non-religious celebrants available, ask your funeral director.

4.7 Service Content

When making your choices ensure you are aware that with every service whether it is in a crematorium or a place of worship there will be time constraints, so be careful what you want.

Depending on your beliefs the service may have to follow certain forms (many religions have formal structures for funeral services).

Typically a service will contain

- Hymns you like, perhaps particular songs or records
- A special reading or poem
- Psalms, eulogies, prayers, readings from the Bible or a particular book that is special to you.

You may be happy for friends, relatives or, indeed, the celebrant to speak even if briefly. This can be traumatic and be careful to suggest people who can cope on the day.

Think about the time of day for the service, particularly if people are coming from far and wide to celebrate your life.

4.8 The Wake

Often arranging a funeral for early afternoon and giving light afternoon refreshments works well. However, as to what is needed will depend on the likely attendees. Attendees often appreciate some photos or items of interest that are personal to you to add to their remembrance of the day that they share with each other.

4.9 Flowers

Flowers, family flowers and charitable donation or just charitable donation? If a charitable donation, which charity (remember the charity number)?

And finally, although it is your funeral remember it is for your friends and relatives to say goodbye – so allow them space and time. Too much organisation can be as bad as too little.

5. A LETTER OF WISHES ATTACHED TO A TRUST

Many clients create trusts on their death perhaps to protect vulnerable beneficiaries or to safeguard their own children's inheritance on a second marriage.

We have also seen an increase in trusts for the whole estate so that greater flexibility is available to the executors.

As a trustee in many of these arrangements I always ask for a letter of wishes from the client, so after the event the trustees have some guidance as to the deceased person's wishes.

The beauty about a letter of wishes is that no one will see it until after you die, so you can actually say what is in your mind! Indeed, it is essential you do make your views clear if you have particular wishes for your estate. Make the letter "private and confidential" for your trustees/executors if you do not want others to know what has been said.

Your letter of wishes can handle:

- Where you think your cash should be invested.
- Which professional advisers you would like (or do not want) to handle the funds.
- Under what circumstances you feel the beneficiaries should be paid out.
- Whether you want the capital distributed quickly or slowly by way of an income.
- At what age you feel your children will be old enough to receive their inheritance.
- Whether income for the survivor should cease on remarriage or after a period of time.

Some trusts include the family home so you may wish to include a note as to when you feel it would be right for the surviving spouse to move out and thus free up your share of the capital for your beneficiaries.

You may also have strong views with regard to certain topics. For instance, a discretionary trust would benefit your children, grandchildren and beyond, you may feel that you want some cash ring fenced for the private education of your grandchildren, or for each grandchild's gap year. In which case, tell your trustees of your wishes.

Some clients will want a share of their estate to go to charity or specific individuals. Again, you can handle this within your letter of wishes, but make sure the trust rules allow any desired gifts (some trusts do not include charitable giving for instance).

It is very important to explain why certain people may not be benefiting from the trust. Most modern trusts include pretty well every relative you have so your trustees may feel obliged to provide funds for a wayward child as they are a potential beneficiary so you confirm your wishes the same as (3.2) above.

You may feel that a discretionary trust should benefit predominately one person or you may believe the trust monies should be distributed in a particular way. Again, you need to state same so for instance:

Whilst my trustees have a wide range of potential beneficiaries, my wishes are that this trust fund should mainly benefit George for the rest of his life, and after that I would like the trust distributed to Ann, George's daughter. I believe giving George and his wife a large sum of money will not be in their best interests and would ask my trustees to provide an income which will secure George's wellbeing.

It is a wish of mine that the trust should provide a deposit for Ann's first home.

I would like my trust distributed ultimately equally for the benefit of Judith and George. I am happy for Judith to have her capital at any time she wishes, however, as George is benefiting from state benefits I wish my trustees to only provide such income or funds that will not lead to subsidy of the state.

If your trust is an IPDI or similar, you must also make it clear that any surviving spouse should not be disadvantaged by giving up capital from the trust. If, for instance, your surviving spouse were to die within 7 years of distributing your trust proceeds, their estate could get a whacking great big IHT bill so you need to state that they should not be disadvantaged.

An example of this could be:

In the event that this trust is distributed to my children, I would like my trustees to seek professional advice as to the liability (if any) to inheritance tax whether immediately due or should (name of spouse) die within any legislative period. Any tax liabilities which may fall upon (name of spouse) are to be paid from my estate either by leaving the liability in a suitable trust or insuring (name of spouse) at my estate's cost so (name of spouse) is not financially worse off for having completed my wishes.

The above suggestions are by no means exhaustive, but I hope they will provide some aide memoirs for letter writers! If you would like our help with your letter of wishes (perhaps by sending you a first draft to alter) then do please get in touch.

6. UPDATING YOUR LETTER

Some people have a copy of their letter of wishes at home, and simply send out a new version to their executors / trustees when appropriate. Others prefer to lodge same with their solicitors or advisers. Many tell everyone where to look for same should they die unexpectedly. For most, letters of wishes are a moveable feast which is reviewed every year or two.

Please note that whilst every effort is made to ensure that the information contained within this explanation is correct, these notes are by necessity brief and of a generalised nature. Clients should seek specific personalised advice prior to undertaking any arrangement. These notes are named [11.2021 Writing A Letter Of Wishes](#) and were last updated in November 2021. Whilst we have done our best to ensure facts are current to this date laws and options are changing constantly so always check before action.

E.&.O.E.