



# Advice from Alan

## Getting your Will right

by Alan Knowsley, consultant, Rainey Collins Lawyers

A Will is a vitally important legal document that

needs to be carefully thought through to ensure what you want to occur does happen after you die.

It is very important to also keep your Will up to date so it reflects what you want to occur now, rather than when it was drafted many years before. Are the people you appointed as executors still capable of carrying out that role? Are you still married to the person you left all your property to, or do you have a new partner or children to also consider?

One way people can get caught out is by having 'Mirror Wills'. A Mirror Will is when two people (usually spouses or a de facto couple) both provide for their assets to be dealt with in the same way. This could be that the assets go to the other partner and then to the couple's children or respective children. This type of Will can come unstuck

because there is nothing to stop one of the partners from changing their Will before or after the other partner dies and without telling the other partner.

Your children might be left out completely by your partner when that was contrary to what you both put in the Mirror Wills. This may occur due to them having married again and left it all to the new spouse or to their new stepchildren.

One way to avoid this is to have 'Mutual Wills'. In a Mutual Will the gifting under the Will is conditional on the other partner agreeing in the Will, or a separate legal document (kept with the Will), that they will not change their Will in any way inconsistent with the Mutual Wills or dispose of property to defeat the Mutual Will purposes. This can be enforced in Court while you are still alive (should you find out while they are alive or after they die) or after they die. It can also be enforced after you die by the beneficiaries who would miss out