

What are the requirements for a valid Will?



To be recognised as a valid testamentary document, a Will must satisfy a number of standard requirements. If these requirements are not met then the Will may be invalid, meaning that the assets will be distributed in accordance with an earlier Will or under the intestacy rules.

When making a Will (or if you are considering disputing a Will) you should keep in mind the following:

Age: At the time the Will is made, the person making the Will (known as the testator) must have reached the age of 18. However, there are some exceptions which may apply depending on the circumstances (e.g. for a person in actual military service). In writing: A Will must be in writing, it can be typed or hand written.

Signed and witnessed: The Will must be signed by the testator (although it is also possible for the testator to acknowledge his signature) in the presence of two witnesses, who should both then sign the Will in the testator's presence. Whilst anyone can generally be a witness, a Will cannot make a valid gift to a witness or their spouse and therefore other persons should be used. Ideally independent people rather than family members will act as they will be better witnesses in the event someone contests the Will.

Capacity: The person making the Will must have sufficient mental capacity to do so. This includes, amongst other things, having an understanding of the nature of a Will and the extent of the assets they are disposing of.

Dated: It is best practice for the Will to be dated. However, it is important to note that an undated Will is not invalid.



How we can help

If you would like more information or would like to discuss your Will dispute further, please contact Phil Youdan at philip.youdan@cripps.co.uk.

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