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# Making a Will

## Information Questionnaire

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## Our Private Client team

Franklins Solicitors LLP is a dynamic and growing legal practice driven by a dedication to exceed its clients' expectations. With more than 30 years' experience as a provider of legal services to both private and business sectors, the firm is committed to constantly improving and widening the range of support services it offers. With a wealth of experience Franklins delivers both quality service and the highest levels of productivity for its clients.

With one of the strongest legal teams in the Midlands, and offices in Northampton and Milton Keynes, Franklins Solicitors LLP is well placed to handle any and every legal issue you need resolved. You can also take comfort from the fact that Franklins is one of the most accredited legal practices in the region and is proud to have achieved accreditation to ISO 9001 and the Law Society's quality accreditation, Lexcel.



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# Making a Will

## What is a Will?

A properly drawn up Will is a legally binding statement of your wishes. It comes into effect when you die and sets out what you want to happen with your property and other assets after your death. It enables you to make important decisions now that could affect your family and friends after your death and could also help protect your estate from unnecessary inheritance tax.

## What if I die without a Will?

Without a Will the Intestacy rules set out how your assets will be distributed amongst your relatives, whether or not it would have been what you wanted.

One of the most common misconceptions is that if you die without a valid Will, all of your estate will automatically go to your surviving spouse or civil partner. This is not the case - they could even end up with insufficient money to remain in the family home and inheritance tax may become payable.

The law does not provide in any way for unmarried partners or step-children, friends or charities that you might have provided for and if you have no surviving blood relatives then your estate goes to the Crown.

These same rules also specify who is responsible for the administration of your estate and this can often lead to practical and emotional difficulties where the individuals entitled to act may not get on or even know each other.

The statutory rules make no provision about the future guardianship of any minor children.

## What can a Will do?

A properly drawn up Will can, amongst other things, include express provisions regarding your funeral wishes, who will administer your estate and who you want to be responsible for the guardianship of any minor children. It can minimise the effects of taxation and will clearly state your instructions for the distribution of your assets to beneficiaries of your choice.

## Who administers my estate after my death?

When drawing up a Will you choose who you want to act as your Executors. These people can be friends or family or professionals such as your solicitor.

Executors are the people who will be responsible for administering your estate in accordance with the wishes set out in your Will and it is the Will which gives them the power to do this. They will be responsible for valuing and accounting for all your assets and debts, preparing the tax returns for HMRC and the Statement of Truth for the application for a Grant of Probate. They may have to release assets to pay any debts and then will distribute the balance of your estate to your chosen beneficiaries in accordance with your Will.

It is usually advisable to appoint two Executors or to have a substitute in case one dies or is unable to act. You need to appoint two Executors when you are leaving property in trust for minor children and these Executors can, if you want, carry on and act as the Trustees of the trust.

You should consider the appointment of your Executors with care. The duties imposed by law on Executors and Trustees are onerous and can lead to personal liability. The role of Executor is both time-consuming and can be complicated and you should check that the people you are thinking about appointing agree to undertake the role and understand their responsibilities.

Professionals, such as solicitors, can be appointed. There will be charges for their work, but it will not necessarily be more than any professional will charge if your Executors instruct them in the administration of your estate after you have died. It can give comfort knowing that the responsibility is in the hands of a professional.

Franklins Solicitors LLP has an experienced Probate Department staffed by skilled solicitors who deal with the administration of estates on a daily basis.

## What about children?

When a parent dies leaving minor children, the surviving parent normally becomes the legal guardian. But to safeguard against the possibility that you both die leaving minor children, we recommend that you appoint another member of your family or a close friend as a testamentary guardian. Parental Responsibility (all those duties and responsibilities involved in being a parent) will pass to the Testamentary Guardian in the event that there is no parent left alive with Parental Responsibility.

You can provide for your children in your Will and can enable your Trustees to have the power to pay money out of any trust fund to the guardians for the maintenance, education and general welfare of your children. Children will inherit absolutely at 18 years of age unless you specify an older age in a properly drawn up Will.

Please note, that in some circumstances unmarried fathers do not automatically have Parental Responsibility for their children and therefore would not automatically become the legal guardian.

If this situation applies to you, Franklins Solicitors LLP can help you with the necessary documentation and registration process to obtain Parental Responsibility.

## What sort of gifts can I leave in my Will?

Your Will can include specific gifts of money or items such as jewellery or cars. Any specific gifts must be clearly identified and set out carefully in your Will. If you no longer own that item at the date of your death, the gift will fail. You can provide for gifts to be placed in trust or to be given absolutely. Any assets that are not dealt with specifically will fall into your residuary estate and will be dealt with as a whole after any taxes and expenses are paid.

As well as thinking about who you want to benefit from your Will you should think about substitute beneficiaries in case your first choice of beneficiary predeceases you.

## What is a Trust and how can I leave a gift in trust?

Trusts are a way of looking after assets for the benefit of a particular person or group of people known as the beneficiary or beneficiaries. Your Will can make a gift into the trust which only becomes effective at the date of your death. There are a number of ways that trusts can be used:

## Typical Trusts for children

- **Bare trusts.** A bare trust is a trust where the beneficiary is absolutely entitled to the capital and any income of the trust. These are typically used where the beneficiary is a minor and cannot receive the asset until they reach the age of 18 when they become entitled to it as of right. Children's bank accounts are an example of a bare trust.
- **18-25 trusts.** Like many parents, if you are concerned about your child's ability to manage or protect any inheritance at the age of 18, you can specify that they inherit at an older age such as 21 or 25. This type of trust brings flexibility and protection – monies can be released earlier if the child needs them but can be held until they are 25 if necessary. There may be some tax issues depending on how much is in the trust, but we can discuss these when we meet.

## Typical Trusts for each other

- **Life interest trusts.** It is possible to provide that the income or benefit from an asset is paid to one person, such as a spouse or civil partner, during their life but the capital value of the asset itself is protected for other people, like your children following the eventual death of your partner. A common example of a life interest trust occurs when you allow your partner to continue to live in your share of the home after your death but state that it is then to pass to your children on the death of your partner. This type of trust is usually tax neutral and offers protection against remarriage or changes to the survivor's Will.

## Specialist trusts

- **Discretionary trusts.** This type of trust has many uses. A group of beneficiaries are named and the trustees have the discretion to decide how the income and capital of the trust are to be distributed, if at all. They will be guided by a letter of wishes from you, explaining the purpose of the trust and how you want them to act. The beneficiaries do not have any defined entitlement to any of the trust assets. These are the most flexible type of trust and have many benefits that may be relevant to your circumstances. There may also be tax issues and we will need to discuss this in detail when we meet.
- **Disabled Person's trusts.** These are specialist trusts for people who are disabled. They need careful thought and detailed discussion as there are pro's and con's with their use.
- **Business and Agricultural Trusts.** These are specialist trusts which are typically used by owners of businesses and farmers to protect and maximise the very valuable Business and Agricultural Property inheritance tax reliefs; to provide for smooth succession planning and to work in hand with Shareholders and Cross-Option Agreements.

You should give careful thought to trust gifts in a number of circumstances:

- If you have children from a previous relationship you might want to protect your Estate for them whilst at the same time ensuring that your current partner is also provided for.
- If you wish to control the final destination of your estate to beneficiaries of your choice after the death

of your partner to protect it from a possible future remarriage, divorce or bankruptcy.

- If you wish to benefit an elderly dependent or infirm relative or someone who suffers from a disability who might be reliant on means-tested benefits or is vulnerable and unable to manage their own affairs.
- If you own an interest in a business or farm to preserve any potential Business Property Relief or Agricultural Property Relief. This will need careful review and advice to ensure that the most suitable arrangements are in place.
- If you are concerned about protecting assets from being used to fund care home fees in the future.

## What if I don't want to leave anything to my family?

The law does not compel you to leave anything to your family in your Will, but if you do not make suitable financial provision for members of your immediate family, cohabitantes or other people financially dependent on you, they may be able to contest your Will through the courts and claim a share of your estate. It is therefore important to have a professionally prepared Will to have the best chance of defending this claim.

## Which assets may not be covered by my Will?

- Death benefits under a pension scheme or Death in Service Benefits from work.
- Life insurance policies.
- Assets in joint names.

We can advise you the best way of dealing with such assets and prepare the necessary documentation to ensure your wishes are effective.

## When should I consider Lifetime Planning?

If your estate includes assets such as life insurance policies and death in service benefits, you really should undertake some lifetime planning. Combining these assets with lifetime trusts can often substantially reduce or even eliminate any future inheritance tax liability. We can identify the need to give this further thought when we meet.

If your estate is going to be taxable, we can discuss common actions that you can take to maximise the available inheritance tax reliefs and exemptions.

## What is Inheritance Tax?

Inheritance tax is a tax that may be charged depending on the value of your assets when you die. If your estate is valued at more than the various inheritance tax thresholds, the excess will generally be taxed at 40%. If you have made gifts of your assets during the last 7 years, these may be included in the calculations for inheritance tax too, as will your share of the value of any jointly owned assets.

If you would like us to discuss inheritance tax, the available exemptions and opportunities for planning and how best to deal with your assets, please let us know. It is important that you tell us what assets you have and what they are worth. We can then review your circumstances fully.

## What if I just want to keep everything simple?

For some of our clients, simple mirror Wills are the best way to meet their needs. For other clients, more complex Wills are needed and these need to be tailored to their specific circumstances. Effective tax planning often means that simple Wills are not the most tax efficient.

## If I divorce or remarry does it affect my Will?

Yes.

- If you divorce, your Will treats your former spouse as if they had predeceased you. No gift in your Will will pass to them and even if they are named as Executors they cannot act as such unless your Will specifically provides for this situation. However, the rest of the Will remains valid.
- Marriage is somewhat different. A marriage usually revokes any previous Will in its entirety unless it is specifically provided for in the terms of the Will. As a result you could find you have an invalid Will and the rules governing intestacy would then apply.

If you intend to marry your partner please inform us so that an appropriate clause can be included in the Will.

If you are married and set up home with a new partner without getting divorced, do make sure you make provision for your new partner and any children in your Will. Otherwise, the legal spouse might be able to inherit under an old Will you have made but not cancelled, or under the intestacy rules.

## If, later in life, I become mentally infirm, can I arrange for a relative or friend to look after my affairs?

You cannot make provision for this in your Will. However, you can arrange it by preparing a Lasting Power of Attorney (LPA). There are two types of LPA – one that deals with finances and one that deals with your health and welfare.

Advance decisions allow you to be the one to make decisions and to set out your wishes in respect of such matters as future life-sustaining medical treatment.

We are happy to discuss your wishes in this respect in more detail and our skilled solicitors are experienced in the preparation of LPAs and Advance decisions.

## Where should I keep my Will?

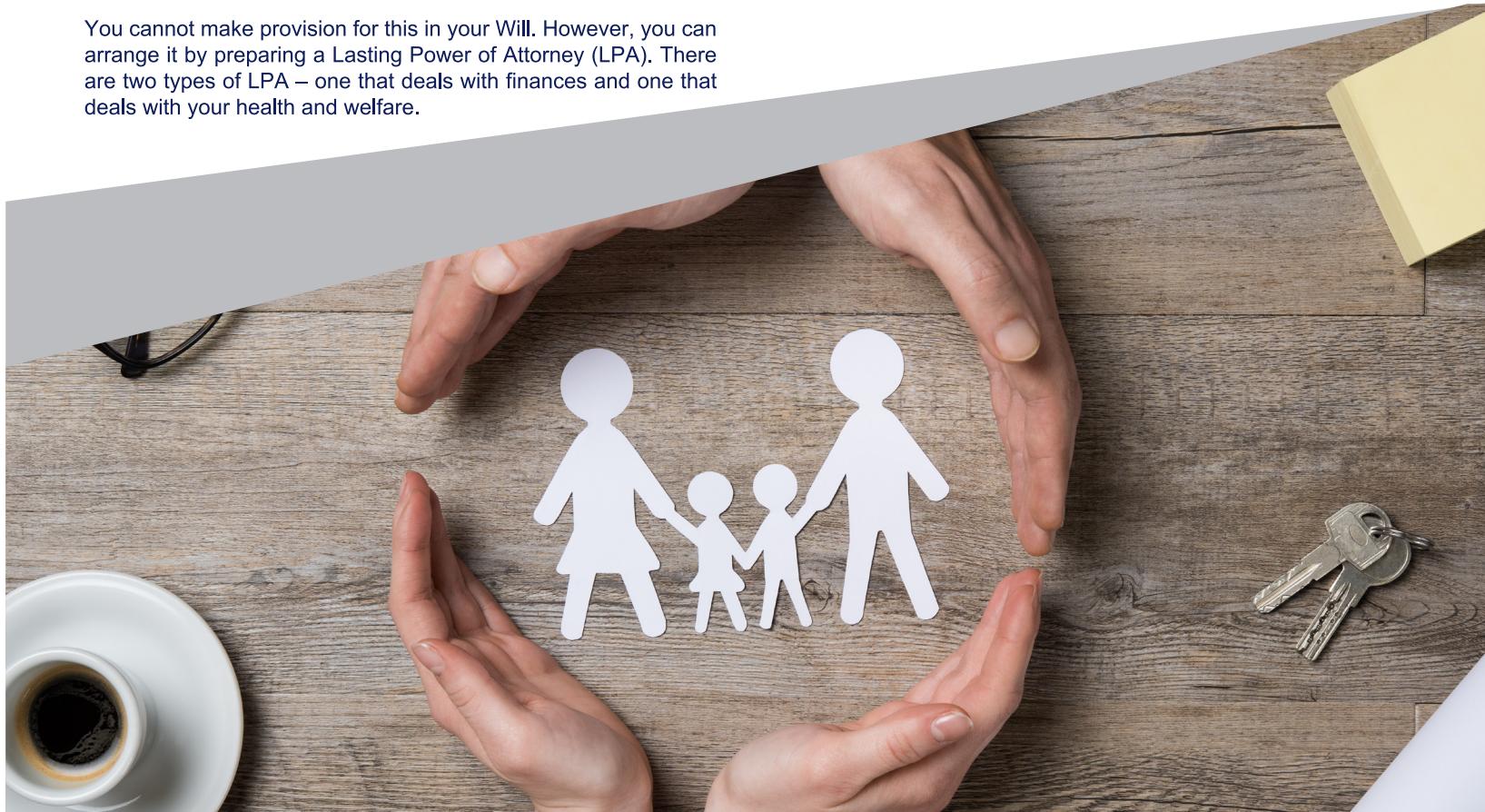
As part of our service to you we will store your Will(s) free of charge in our fireproof storage facilities.

## Reviewing and altering your Will

Once your Will has been completed you cannot make changes by simply amending it. It will need to be amended formally either by Codicil or, for more fundamental changes, by a new Will. This avoids any misunderstanding between the wording of your original Will and any words used in the Codicil. It can also avoid embarrassment in that once you die and your Executors obtain a Grant of Probate your Will and any Codicil becomes a public document. Therefore people could find out that they were originally to benefit under the Will but this gift had been removed by Codicil. A new Will would mean that they would never find out, which can prevent disagreements and embarrassment.

You do not need to make a new Will if anyone named in it simply changes address – you can leave a note of their new details with your Will and we would appreciate it if you let us know as well.

We advise that you should review your Will every two to five years, and especially when there is a major change in your life, such as marriage, separation or divorce, a death or birth in the family or changes to your financial situation such as the growth of your business or substantial inheritance.



# Making a Will – Information Questionnaire

## Part 1 – Personal Details

Please complete this questionnaire giving full names (including all middle names) and full addresses in **BLOCK CAPITALS** for everyone you wish to mention. For example ELIZABETH ANNE WINDSOR not Betty A Windsor.

How did you hear about us?				
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	You	Your Partner		
Please tick Yes here to state that you are happy for us to contact you and send you other marketing information that will be of interest to you?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> YES	<input type="checkbox"/> NO

	You	Your Partner						
Title (Mr, Mrs, Ms etc.)								
Full Name (include all middle names)								
Are you known by any other name and are there any assets in this name?								
Address								
Date of birth								
Email address								
Are you happy for us to correspond and send drafts by email address	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> YES	<input type="checkbox"/> NO				
Contact Numbers	Home:		Home:					
	Mobile:		Mobile:					
	Work:		Work:					
Occupation								
Current relationship status	<input type="checkbox"/>	Single	<input type="checkbox"/>	Married	<input type="checkbox"/>	Cohabiting	<input type="checkbox"/>	Widowed
	<input type="checkbox"/>	Separated	<input type="checkbox"/>	Divorced	<input type="checkbox"/>	Civil Partnership		
Date of marriage/ Start of cohabitation								
Date of death and name of Spouse/ Partner								

Your children from this relationship <i>(Please include details of all children and state full names and dates of birth and address where not the same as yours)</i>	1
	2
	3

	You	Your Partner
Do you have any children from other relationships? (Please include details of all children including natural, adopted, step-children and state full names and dates of birth and address where not the same as yours)	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
	1	1
	2	2
	3	3
Grandchildren (Please include details of all grandchildren and state full names, dates of birth and addresses)		
Please continue on a separate sheet if necessary.		

	You	Your Partner
Have you been married before?	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
	Date of Divorce: <input type="text"/>	Date of Divorce: <input type="text"/>
Is there a spouse or ex-spouse who has not re-married.	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
	Name: <input type="text"/>	Name: <input type="text"/>

	You	Your Partner
Do you suffer from any illness or disability that might impact on your capacity to make a Will? (If yes, please supply details of your GP or Consultant.)	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
	GP/Consultant Details: <input type="text"/>	GP/Consultant Details: <input type="text"/>
Do you suffer from any disability that would make reading or signing your Will difficult?	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
	Special requirements: <input type="text"/>	Special requirements: <input type="text"/>

	You	Your Partner
Existing Wills (Include details of whereabouts and please supply a copy)	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
	Whereabouts of Will: <input type="text"/>	Whereabouts of Will: <input type="text"/>
Do you want Franklins to store your new Will?	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
Do you wish to be buried or cremated?	<input type="checkbox"/> Buried <input type="checkbox"/> Green <input type="checkbox"/> Cremated	<input type="checkbox"/> Buried <input type="checkbox"/> Green <input type="checkbox"/> Cremated

## Part 2 – Your Will

### Both of you

Whom do you wish to appoint as Executors?

*(You must appoint Executors to administer your estate and carry out your instructions in your Will. Being an Executor is time-consuming and onerous. You can appoint your spouse on their own, otherwise, it is wise to have at least two, especially if children are named as beneficiaries. We will be pleased to act as your Executors, either alone or with a family member or friend. Please state full names, addresses and relationship to you. If you each wish to appoint different Executors we can discuss this and the implications of it at our meeting.)*

#### 1st Death

Each other  Other  
 Franklins

Name:

Address:

Relationship:

#### Substitute/ 2nd Death

Other  Franklins

Name:

Address:

Relationship:

Whom do you wish to appoint as guardians and substitute for minor children (under 18)?

#### 1st Choice

Name:

Address:

Relationship to you:

#### Substitute

Name:

Address:

Relationship to you:

### You

### Your Partner

Do you want to make gifts of specific things or sums of money? *(Please give details of the gift and the full name and address of the beneficiary. Alternatively, please tick the box if you would like a reference in the Will and a separate list that can be updated as necessary with a letter of wishes.)*

Separate List

Separate List

Gift and beneficiary details:

Gift and beneficiary details:

Charitable legacies

Charity name:

Charity name:

Both of You			
<p>The Residual Estate – Do you want your partner to inherit the whole estate (subject to gifts specified)? If No, whom do you wish to inherit? (Please give full names, addresses and relationship to you of any beneficiary not already mentioned in this questionnaire.)</p>	<input type="checkbox"/> YES <input type="checkbox"/> NO <p>Name: _____</p> <p>Address: _____</p> <p>Relationship to you: _____</p>		
<p>Substitute Residual Beneficiaries</p> <p><input type="checkbox"/> Children</p> <p><input type="checkbox"/> Other</p>	<p>Name: _____</p> <p>Address: _____</p> <p>Relationship to you: _____</p>		
<p><b>Trusts:</b> Any child will inherit at the age of 18 years. Do you wish to state an older age?</p> <p>(These would fall under trusts, discretionary trusts and disabled discretionary trusts and are likely to require more detailed discussion with us at appointment)</p>	<input type="checkbox"/> YES <input type="checkbox"/> NO <p>If yes please tick:    <input type="checkbox"/> 21    <input type="checkbox"/> 25    <input type="checkbox"/> Other</p>		
<p>Are you concerned about the survivor remarrying or changing their Will?</p> <p>Are you concerned or have queries about any of the following?</p>	<p><input type="checkbox"/> YES    <input type="checkbox"/> NO</p> <p>Areas of concern:</p> <p><input type="checkbox"/> Divorce, bankruptcy of beneficiary or immaturity of beneficiary</p> <p><input type="checkbox"/> Care home fees</p> <p><input type="checkbox"/> Do you have a disabled beneficiary?</p> <p>Other: _____</p>		
You		Your Partner	
<p>Do you have any foreign property or assets? (If yes, please supply details and copy of foreign Will.)</p>	<input type="checkbox"/> YES <input type="checkbox"/> NO <p>Details: _____</p>	<input type="checkbox"/> YES <input type="checkbox"/> NO <p>Details: _____</p>	
<p>Have you made any gifts in the last 7 years (if over £3,000 in any one tax year)? (If yes, please supply details)</p>	<input type="checkbox"/> YES <input type="checkbox"/> NO <p>Details: _____</p>	<input type="checkbox"/> YES <input type="checkbox"/> NO <p>Details: _____</p>	
<p>Have you made any trusts in the last 14 years? (If yes, please supply details)</p>	<input type="checkbox"/> YES <input type="checkbox"/> NO <p>Details: _____</p>	<input type="checkbox"/> YES <input type="checkbox"/> NO <p>Details: _____</p>	
<p>Are you a British Citizen, have you always lived in England or Wales and do you intend to remain here? (If, No to any, further discussion is required)</p>	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	

### Part 3 – Summary of Value of Assets – You and your Partner

#### Approximate values only required.

	Sole owner- ship	Joint owner- ship	Please provide brief description of assets	Market value	For us to complete after discussions
<b>Assets</b>					
Home	<input type="checkbox"/>	<input type="checkbox"/>			
Other properties or land	<input type="checkbox"/>	<input type="checkbox"/>			
Cash Savings	<input type="checkbox"/>	<input type="checkbox"/>			
Shares and other investments	<input type="checkbox"/>	<input type="checkbox"/>			
Life insurance / Death in Service	<input type="checkbox"/>	<input type="checkbox"/>			
Pensions	<input type="checkbox"/>	<input type="checkbox"/>			
Business interests (Detailed discussion required)	<input type="checkbox"/>	<input type="checkbox"/>			
Other assets	<input type="checkbox"/>	<input type="checkbox"/>			
<b>Liabilities</b>					
Home	<input type="checkbox"/>	<input type="checkbox"/>			
Mortgage/s	<input type="checkbox"/>	<input type="checkbox"/>			
Bank loans	<input type="checkbox"/>	<input type="checkbox"/>			
Overdraft	<input type="checkbox"/>	<input type="checkbox"/>			
Credit card debts	<input type="checkbox"/>	<input type="checkbox"/>			
Total liabilities					
Net Estate (For us to complete)					

Please sign and date

Signature:

Signature:

Print Name:

Print Name:

Date:

Date:

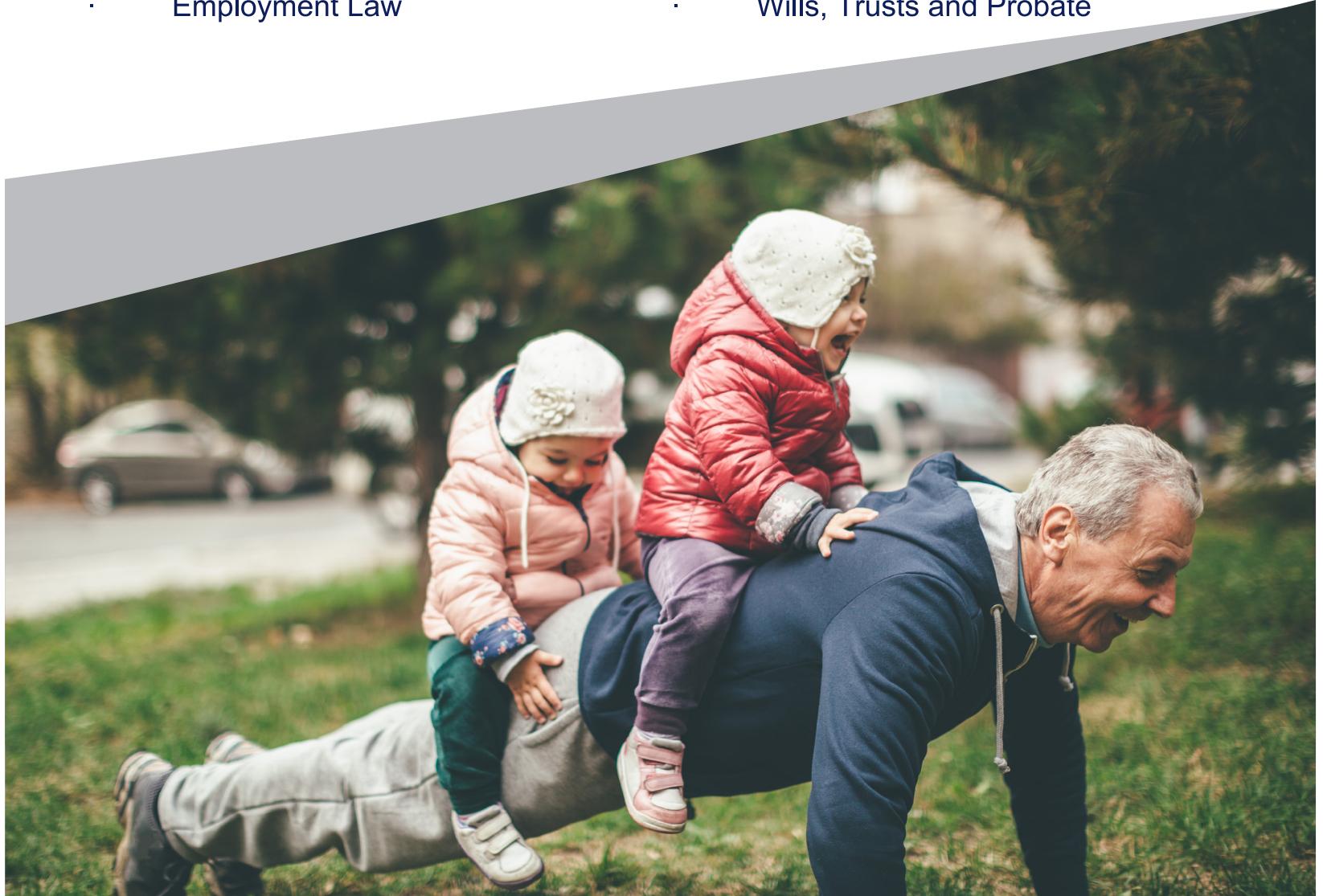
## Our Experts Can Help You With...

Our expert Wills, Trusts and Probate team can advise on the following:

- Wills
- Lasting Powers of Attorney
- Estate Planning
- Care Home Fees
- Trusts for Asset and Wealth Protection
- Trusts for Vulnerable and Disabled Beneficiaries
- Administration of Trusts
- Administration of Estates and Probate Applications
- Court of Protection Applications
- Deputyships

Other legal needs covered within Franklins Solicitors LLP:

- Corporate Services
- Commercial Dispute Resolution
- Commercial Property
- Debt Recovery
- Employment Law
- Family Law
- Intellectual Property
- Mediation
- Residential Property
- Wills, Trusts and Probate



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