**IS YOUR WILL VALID?**

“Death knocks at all doors alike” (John Dunton 1692)

Sooner or later we must leave our families to face life without us, and of course these are particularly dangerous times for us all.

Make sure that your own affairs are in order now:

1. A valid will is the only sure way to protect your loved ones after you are gone.

1. If you have an old will, check whether it needs updating or changing.

1. Leave a file with all the important information and documents that your estate’s executor will need.

Five mistakes which can invalidate your will

The last thing you want is to leave your loved ones grappling not only with the tragedy and grief of your passing, but also with a bitter feud over the validity of your will. Avoid these mistakes in particular:

1. Not complying with all the required formalities when making your will: Although our courts do have a discretion to order the Master of the High Court to accept as valid any document not complying strictly with the various required formalities (the court must be satisfied that the document “was intended to be [your] will or an amendment of [your] will” you will want to spare your loved ones all the delay, cost and risk of dispute involved in a court application.

1. Not complying with formalities when changing your will: The same applies if you want to change or revoke your will. In addition, a court can declare your will to be fully or partially revoked if you did anything (such as leaving something written on your will, an action on your part, or another document) that satisfies the court of your intention to revoke the will. Again a scenario to avoid at all costs with a properly-drawn replacement will or codicil.

1. Leaving any doubt as to your “testamentary capacity”: Anyone aged sixteen years or more may make a will “unless at the time of making the will he is mentally incapable of appreciating the nature and effect of his act”. Although it is up to anyone challenging your capacity to prove that you were mentally incapable at the time, there are grey areas here and our law reports are full of bitterly-fought disputes over the question of testamentary capacity. So if there is any chance at all of that sort of challenge arising ask your lawyer to advise on the best way to leave proof of your capacity at the time of signing.

1. Leaving any doubt as to fraud or forgery: All too often our courts have had to decide disputes over whether the signature on a will is genuine or forged, or over allegations of fraud. Again if there is any risk of that happening, get legal advice on how to put the genuineness of your signature, and of the correctness of your will, beyond doubt.

1. Leaving any doubt as to coercion or “undue influence”: As with the previous two warnings, this isn’t likely to be a danger for most people, but on the “better safe than sorry” principle don’t risk any chance of someone challenging your will with accusations that you were subjected to some form of duress (threats perhaps, anything that would cause you to act unwillingly or against your better judgment) or undue influence.

If you don’t have an updated will in place contact your attorney now – one of the commonest (and most tragic) mistakes people make is thinking “I’m too busy right now, it can wait”. It can’t!