



Statutory Wills

A Statutory Will is a way of making a Will on somebody else's behalf should they lack the capacity to make their own Will. An application for a statutory Will needs to be made to the Court of Protection.

There is the possibility that the application will result in a hearing at the Court. Alternatively, the Court has jurisdiction to rubber stamp the application without a hearing. It is likely, however, that the Court will appoint the Official Solicitor to advise and act on the incapacitated individual's behalf.

When Is A Statutory Will Appropriate?

If a person has lost capacity (for example because of dementia or a stroke) then, in all likelihood, they will lack the necessary capacity to make a Will.

In this situation their estate is distributed to their next of kin in a strict statutory order (known as the intestacy rules). A distribution under the intestacy rules may not result in a fair outcome for all concerned and, more importantly, may not be an outcome the incapacitated person would have chosen themselves if they, at this moment in time, had the capacity to make their own Will.

Applying to the Court of Protection to make a Statutory Will can help to avoid this.

Disclaimer

The information provided herein is based on legislation, in operation at the time of publication, which may subsequently have changed and whilst every care has been taken in its production, New Patch can accept no responsibility for any action undertaken or refrained from as a result of the information provided. The information provided is for general guidance purposes only and does not negate the need to obtain specific professional advice in relation to your individual personal circumstances