



## Wills

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### What is a Will?

Your Will is a legal document setting out what should happen to your money, personal items and property (together referred to as your estate) after you die.

### Why do I need a Will?

Making a Will allows you to:

- Choose who will administer your estate when you die (your Executors). These can be family members, friends or professionals such as solicitors or accountants.
- Appoint guardians to look after any children who are under 18 when you die.
- Indicate your funeral wishes (although it is usually a good idea to discuss this with family members so they already know your wishes).
- Make gifts to charity.
- Decide who gets what and when. You can safeguard assets and make sure that the people who you want to benefit receive what they are due.
- Safeguard assets for young or vulnerable beneficiaries through the use of trusts.
- Provide for people who might not inherit under the Intestacy Rules such as children from a previous relationship or an unmarried partner.
- Distribute your assets in the most tax efficient manner.

Writing a Will is especially important if you have young children or other people who depend on you financially or if you wish to leave something to people outside your immediate family.

### What happens if I do not make a Will?

If you do not leave a Will then you die intestate. This means that legal provisions called the Intestacy Rules decide what happens to your estate. This may not be in line with your wishes. The Intestacy Rules provide for your assets to be divided between certain relatives. The precise division depends on your circumstances.

In some cases it may be necessary to trace distant relatives which can take time and expense. It can also result in unmarried partners or children from previous relationships losing out altogether.

In rare cases, where no relatives can be traced, your assets pass to the State.

### What doesn't my Will cover?

Your Will normally covers the majority of your assets but there are some things which are not covered. These include:

- Pension Funds.
- Life insurance policies.
- Assets held on trust.
- Jointly owned property.

If you own any of these assets you will need to make separate provision for them.

Joint property can include joint bank accounts and your home. Usually, jointly owned property automatically passes to the surviving joint owner on death ignoring the terms of the deceased's Will.

It is possible to change this so that the deceased's share passes according to their Will. This is done by completing a Notice of Severance in addition to your Will.

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## Can I change my Will?

Changing your Will is easy. You can simply make a new Will, to replace the old one, or make a small change by preparing a Codicil. What you must not do is add or delete sections of your existing Will by typing or writing on it as this will not be effective.

No changes are effective until you have properly signed your new Will or Codicil in the presence of witnesses.

## What if I have property abroad?

If you own any assets outside England and Wales then you should take advice from a locally qualified lawyer about the rules which apply. Both Scotland and Northern Ireland have different rules.

Usually it is best to have a separate Will for each country in which you own property and to make sure that there is no cross-over between them.

## Can someone challenge my Will?

You are free to include whatever provisions you wish in your Will but there is always a risk that someone may challenge your Will if they do not receive what they expect or believe that they are entitled to. For instance, failure to make adequate provision in your Will for someone who is financially dependent on you at the time of your death, or who has given up their own home or job in order to care for you, is likely to result in your Will being challenged. It is impossible to prevent someone from challenging your Will but it is possible to take steps to reduce the likelihood of any challenge succeeding:

- If your Will might be controversial in any way then you should ask your lawyer about preparing a separate statement of reasons explaining why you have prepared it in the way you have.
- If you believe that after your death someone might say that you did not have sufficient mental capacity to make a Will or did not understand what you were doing, please let your lawyer know. They can then tell you what steps to take to protect your Will from challenge.

If your Will is challenged this will delay the administration of your estate, and will cause serious difficulties for your Executors. It could also result in a large legal bill which will have to be paid out of the estate assets. You should therefore think very carefully about including any provisions, or excluding persons, where this is likely to lead to your Will being challenged.

## Do I need to register my Will anywhere?

You do not need to register your Will anywhere or comply with any formalities other than it being properly signed and witnessed. You should however make sure that people close to you know that you have made a Will and where it is kept. If nobody can find your Will when you die then you may as well never have made one.

Often people store their Wills with their solicitor for safekeeping but there is no requirement to do this. If we store your Will please note that in order to protect your confidentiality and security only you can request the return of that Will. Once you die we will only give the Will to your Executors and then only on production of suitable ID and your death certificate.

## The Process

When you instruct us to prepare a Will, we will take the following steps on your behalf:

- Meet you to take your instructions.
- Ask you to complete a questionnaire so that you can provide us with relevant details of your family and assets.
- Advise you about the best structure for your Will and prepare a draft for you.
- Once you have approved the draft, meet you to sign your Will and provide suitable independent witnesses.
- Store the signed Will in our strong room. There is currently no charge for this.

This Guide is not intended to be comprehensive. It highlights and explains the common legal issues relevant to this topic. It should also help you to understand any steps we take on your behalf and the terms we and other professionals involved in your matter may use. Please read this Guide carefully and contact the lawyer dealing with your matter if you do not understand anything in it. We will not repeat the advice or information provided in this Guide when we meet you or write to you unless we need your specific instructions on some aspect of it.