

Guide to Wills

You know what they are – but we tell you why you should bother, what your choices are and how to sort it quickly

It doesn't matter my family will get it anyway! Hmmm maybe not...

If you get squashed by the number 30 bus without a will in place – this is called being 'intestate' – the Government decides who gets what from your wealth (your estate). This means that some 'suit' sitting behind a desk, who does not know you or your family, will apply a set of procedures to decide how the estate is shared.

As a general rule, a spouse or civil partner is first in line but won't necessarily receive everything. Next in the queue are children or grandchildren and parents.

But bureaucrats don't believe in keeping things simple. If you're not married, your partner will not necessarily get anything. If you have kids, it's complicated. And yup, you've guessed it, even dying is a taxable event.

Here are a few things which trip people up

If you're not married or in a civil partnership, it all gets a bit Victorian. If you don't make a will, your partner potentially stands to inherit nothing, even if you have been living together for ages and have kids together.

Here's an example. Bob and Maddy live together, they are not married and have a daughter, Katie. Bob dies and the assets, or 'estate', are then held in trust for Katie until she grows up. Maddy gets nothing. The mortgage provider may call in the debt if Maddy cannot prove that her salary alone is enough to cover this and transfer a joint mortgage to a single mortgage... Well, let's just say that the mortgage provider won't let you off the hook because you're grieving.

If you are living with someone who is separated but not legally divorced, their legal spouse will have first priority on all assets, potentially even the property where you live. Imagine that!



IF YOU'RE NOT IN A PERFECT 1950S NUCLEAR FAMILY UNIT, A WILL CAN PROTECT YOUR WISHES

Who would look after the kids?

You also need to think about who will look after your children if both parents die. This can be a really distressing thought and no-one likes this bit, but it does force an important conversation. A will can be used to appoint a guardian who agrees to look after your children (if they are under 18). Otherwise social services may have to intervene to decide who should care for your children, if they deem surviving members of the family unfit or unwilling to care for them. If family members are unwilling then they will be registered for fostering or adoption and the children could be split up.

Inheritance tax

If your assets are valued over £325,000, your estate could have to pay 40 per cent inheritance tax to the State on any sum above that amount in the event of your death. There is also an extra allowance of £100,000 for your property in the 2017/18 tax year. But you can leave everything you own to a husband, wife or civil partner and pay zero inheritance tax – known as a spouse exemption. A husband or wife can then leave up to double that (a total of £650,000 in assets and £200,000 in property) to beneficiaries free of inheritance tax when they die. A will means you can plan for inheritance tax and save your family any unnecessary tax bills or stress.

Writing a will in trust

This isn't as complicated as it sounds and is worth considering if you want to make sure that specific family members inherit your assets or if you want to minimize the inheritance tax payable on your estate.

For example, your son or daughter might have married someone you think is like Attila the Hun. To protect any inheritance, you could set up a trust to ensure assets pass directly to your grandchildren on their death, rather than their spouse.

Other scenarios include wanting to protect assets for those who are too young to handle their affairs. Or you may want to protect assets from children with problems, such as gambling or drug addictions.

A trust is a legal arrangement that allows assets (such as investments or property) to be looked after for the beneficiaries in your will. Assets are looked after by a third party, known as the 'Trustee', to avoid anything passing to someone you don't want to inherit.

Different types of wills

There are different types of wills, including single (individual) Wills and 'mirror' versions for couples with the same or similar wishes. There are also will trusts, where wealth is managed by individuals on behalf of a beneficiary. This could be a better way to provide for children or for relatives with mental disabilities.

Power of attorney

Sorting out a Power of Attorney is also worth thinking about. This makes sure that it's clear who is looking after your affairs for you, if anything happens or you lose your faculties. The law is not always logical or emotionally astute so don't leave it to chance.



THERE ARE 2 MAIN TYPES OF TRUST - LIFE INTEREST TRUSTS AND DISCRETIONARY TRUSTS.

Life interest trusts

Using these, any assets are held on behalf of a beneficiary for their lifetime and then passed onto another on their death. This means your beneficiary will get income, or interest, from investments for example, but the actual thing itself (eg shares, or property) is not owned by them. They just get the rent or dividends. So if you have re-married for example, this sort of trust allows your spouse to get an income or interest but your actual investments pass to your children.

Discretionary Trusts

These are more flexible, and as their name suggests give the Trustee discretion. They can choose who benefits and by how much.

So if the Trustee sees Attila in action, they can decide to pass the money directly to your grandchildren.

If you are close to, or over, the levels at which inheritance tax kicks in, you may want to consider a Discretionary Trust to minimise IHT. However, be aware that there is more risk involved in terms of the potential for the Trustee to go against your wishes after your death.

It's vital to choose someone you have complete faith in as Trustee. You could add further guidance for them in a letter of wishes, which is stored with your Will. While this isn't a legal document, it could give you peace of mind that you have set out what you want clearly.

This is complicated stuff and we suggest you find a good solicitor to make sure you've covered all bases.



**NEED HELP?
LOOK FOR A SOLICITOR FOR
GUIDANCE**

Don't forget to re-do your will after changing marital status

Here is an awful story which a financial advisor shared with us. Peter had made a will earlier in life in favour of his girlfriend and their daughter. Since the will was made, Peter married his girlfriend and they had another two children. Then, aged just 41 he was tragically killed in a car accident. At the time, he and his wife were separated and in the process of divorcing. Because Peter had married after writing his will, the marriage annulled the will meaning that as far as the law was concerned, he had no will when he died. His considerable assets are now held in a statutory trust for his children, but it has taken over 18 months to arrange this. As he and his wife were divorcing, she gets nothing and is now solely financially responsible for the 3 children until they are older and inherit the assets which are now held in trust. This is not what Peter would have wanted.

Boring Money tips

You can either DIY and do a will online or get a professional to draw one up for you. Just be careful when you do this online because you could create an invalid will which could be picked apart if your dysfunctional family makes Cinderella's stepmother look sweet.

We're firm believers that something is better than nothing. You can get online will kits from **WHSmith** or **Amazon** for about £10. Alternatively many charities such as **the NSPCC** and **Cancer Research UK** provide an online service for you to make a will, on the assumption that you will feel, well, charitable towards them whilst doing so.

Some online providers, such as **Co-op**, also offer a fixed-fee service to produce a will (The Co-op charge £125+VAT for a single will).

If you want to get this done by a solicitor, there is an online option. Solicitors **Irwin Mitchell** offer an online service starting from £145+VAT for a single will. Many banks will offer their customers a will writing service and costs can average from £90.00 - £150.00.

If your affairs are anything other than straightforward you may prefer to bite the bullet and instruct a solicitor to draw up your will. The cost is likely to be between £200 and £400 for a single will or between £300 and £500 for mirror wills. Anything more complicated will cost extra. But paying a few hundred pounds now could save thousands of pounds in tax in the future. So those with more assets, people who are unmarried or divorced, parents and anyone with very specific wishes, should consider forking out to get this done and checked by a professional.

Solicitors at the top of their game will either have a Wills and Inheritance Quality Scheme mark, recently introduced by the Law Society, or will be listed by the STEP, Society of Trust and Estate Practitioners.



THE LAW SOCIETY'S WEBSITE WILL
SHOW YOU NEARBY QUALIFIED
SOLICITORS

Some final things to think about

Be aware there are will writing services, some costing less than £100, which look official but are not always provided by legally qualified or regulated will writers. If you use a will writing company, choose one belonging to either the Society of Will Writers or the Institute of Professional Willwriters.

Mistakes made during the writing of a will can make it invalid. Typical errors include not having the document signed by witnesses, or asking a witness who is also a beneficiary to sign.

Even a stapled will or one put together with a paper clip can nullify its contents. This could suggest there may have been an additional document at some time.

Marriage cancels out any previous will, unless impending nuptials are accounted for when the document is created. Divorce also changes the terms, as someone referred to as husband or wife no longer has that title.

Executors (those named in a will who must distribute your wealth and ensure your wishes are adhered to) need instructions about any 'digital legacy', i.e Facebook, Twitter account, Paypal etc. If you have money in online bank accounts or a social media presence you want deactivated, the family will need to know how to access those accounts.

Here are the web links in full:

WHSmith will kit	www.whsmith.co.uk/products/last-will-and-testament-diy-will-download-ekit-valid-in-england-wales-and-northern-ireland/90009266
Amazon will kit	www.amazon.co.uk/Last-Will-Testament-Kit-Yourself/dp/1909104086
NSPCC	www.nspcc.org.uk/what-you-can-do/make-a-donation/leave-charity-gift-in-will/
Cancer Research UK	www.cancerresearchuk.org/support-us/donate/leave-a-legacy-gift-in-your-will/free-will-service
Co-op	www.co-oplegalservices.co.uk/making-a-will/
Solicitors Irwin Mitchell	www.irwinmitchell.com/personal/wills-and-estates