

Your guide to making a will



The Law Society

Who should make a will?

If you care about what happens to your property after you die, you should make a will. Without one, the State directs who inherits, so your friends, favourite charities and relatives may get nothing.

It is particularly important to make a will if you are not married or are not in a registered civil partnership (a legal arrangement that gives same-sex partners the same status as a married couple). This is because the law does not automatically recognise cohabitants (partners who live together) as having the same rights as husbands, wives and civil partners. As a result, even if you've lived together for many years, your cohabitant may be left with nothing if you have not made a will.

A will is also vital if you have children or dependants who may not be able to care for themselves. Without a will there could be uncertainty about who will look after or provide for them if you die.

Your solicitor can also advise you on how inheritance tax affects what you own.

You should also consider taking legal advice about making a will if:

- several people could make a claim on your estate when you die because they depend on you financially;
- you want to include a trust in your will (perhaps to provide for young children or a disabled person, save tax, or simply protect your assets in some way after you die);
- your permanent home is not in the UK or you are not a British citizen;
- you live here but you have overseas property; or
- you own all or part of a business.

Once you have had a will drawn up, some changes to your circumstances - for example, marriage, civil partnership, separation, divorce or if your civil partnership is dissolved (legally ended) - can make all or part of that will invalid or inadequate. This means that you must review your will regularly, to reflect any major life changes. A solicitor can tell you what changes may be necessary to update your will.

Using a solicitor

Although it is possible to write a will without a solicitor's help, this is generally not advisable as there are various legal formalities you need to follow to make sure that your will is valid. Without the help of an expert, there's a real risk you could make a mistake, which could cause problems for your family and friends after your death.

Finding a solicitor

If you need to make a will but don't have a solicitor, visit our website at www.lawsociety.org.uk/findasolicitor and search under 'Wills and Probate' to get details of solicitors in your area. Or you can call 0870 606 2555.

What your solicitor will need to know

Once you have appointed a solicitor, they will need the following details from you.

What you own

Details of everything you own, including property, cars, personal valuables, stocks and shares, bank accounts, insurance policies, any businesses you own, and pensions.

Who gets what?

Who do you want to leave these assets to? How do you want to divide your property between your loved ones, friends or charities? Are there any conditions you want to attach to these gifts (for example, that young people must reach a particular age before they are paid money you have left them)?

Family and other beneficiaries

Details of your family and status. Are you divorced or has your civil partnership been dissolved? Have you remarried or entered into a new civil partnership? Or are you living with someone without being married to them or being their civil partner? Do you have any children or any other dependants? Anyone who depends on you financially can ask a court to review your will if they feel you have not provided properly for them. If you give your solicitor relevant details, they can tell you about any legal pitfalls.

Guardians

If you have any children that may still be under 18 when you die, you may need to name someone as their legal guardian.

Other wishes

Do you have any particular wishes for your funeral? Do you want to be buried or cremated? Are there any other instructions? For example, if you want to be an organ donor this can be included in your will. However, it is also a good idea to record your wishes on the organ-donor register, or to carry an organ-donor card.

Executors of your will

You must also name the people you want to appoint as 'executors' of your will - the people who carry out the administration of your will after your death. These could be friends or family members, or a professional such as your solicitor. A good combination would be a friend or family member and a professional. Ideally, you should choose someone who is familiar with financial matters. Make sure you ask your executors whether they are happy to take on this duty as there are long-term responsibilities involved, particularly if you include a trust in your will. It is a good idea to ask someone younger than you are.

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Signing the will

Once the will has been drawn up it is not effective until it has been signed. There are several rules affecting the signature process which, if not followed correctly, will make your will invalid. For example, witnesses and their husbands, wives or civil partners cannot benefit under the will. Many people use staff at their solicitor's office to act as their witnesses to avoid this problem.

Where to keep the will

It is important to keep your will in a safe place and tell your executors or a close friend or relative where it is. People often ask their solicitor to store their wills for them. Most solicitors will do this for free, but sometimes there is a small fee.

Keeping your will up to date

You should review your will at least every five years and after any major life change such as getting separated, married or divorced, having a child or moving house. It is best to deal with any major changes by getting a new will drawn up. But it is also possible to make minor changes (or 'codicils') to your existing will. In both cases it is best to consult a solicitor.

Costs

Charges for drawing up a will can vary between solicitors. They also depend on:

- the experience and knowledge of the solicitor; and
- how complicated your will may be.

Before you decide who to use, check with a few local solicitors to find out how much they charge. But remember that cost should not be the only consideration. It is equally important to find a solicitor who is approachable and whose advice you understand.

More information

This is one of a series of leaflets covering the most common types of legal services which solicitors provide. Other leaflets in the series are listed below. You can get them from your solicitor or from www.lawsociety.org.uk/commonlegalproblems.

- Your guide to buying a home
- Your guide to getting a divorce
- Your guide to problems at work
- Your guide to setting up in business
- Your guide to making a personal injury claim
- Your guide to financial matters for the elderly
- Your guide to setting up home with your partner
- Your guide to renting out your property
- Your guide to renting a home
- Your guide to using a solicitor
- Your guide to probate
- Your guide to claiming asylum

You can get this leaflet in large print, in Braille, on audio tape and on CD. If you need one of these versions, please contact us by e-mail at accessibility@lawsociety.org.uk or phone 0870 606 2555.

You can also get this leaflet in different languages. You can get these by visiting our website, www.lawsociety.org.uk.

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