Wills and estate planning

Practical advice for making and updating your will

AgeUKIG31

Information written with you in mind.

This information guide has been produced with the help of older people, carers and expert peer reviewers.

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What this guide is about

Making a will is the only way to ensure that your wishes are met after you die.

This guide outlines the process of making a will. It explains why it's important to make one and what could happen if you don't. It also covers things you should think about along the way, and when to seek professional advice.

You might not have got round to making your will yet, or maybe you've deliberately put it off – but while it can seem daunting, the process can actually be quite simple.

"I recently changed my will because I have a lovely new granddaughter."

Jen, 64

It might be that you already have a will that you set up years ago and haven't thought about for some time. It's important to review and update your will at least every 5 years to make sure it still reflects your wishes – or sooner if there's a major event in your life, such as the marriage of a child or the birth of a grandchild.

While this guide covers a lot, it's important to note that it contains general advice only – it shouldn't be used as a substitute for professional advice.

This guide is applicable across England and Wales. In Northern Ireland, contact Age NI for their version of the guide.

Next steps

When it comes to legal matters, knowing more can help you feel more in control. If you want more detailed information about anything mentioned in this guide, it's worth reading our related factsheets:

- **Making a will**
- **Dealing with an estate**
- **Planning for your funeral**

You can also call the HMRC helpline for probate and Inheritance Tax enquiries (page 27) for more advice.

Why you should make a will

Although it can feel difficult to talk about what should happen after someone dies, open and frank conversations about wills and inheritance can make things a lot easier further down the line.

Why is it important to make a will?

Making a will is important because it's the only way to make sure your **estate** goes to the people and causes you want it to.

If you die without making a will, your estate might be distributed in a way that you wouldn't want. There's more information about this on page 8.

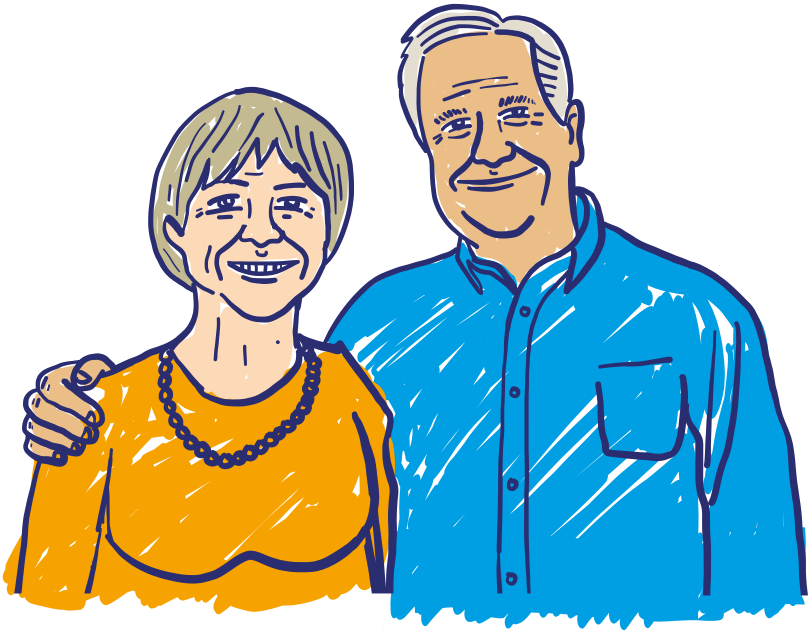
Your **estate** is everything you own – including your money, property, possessions and investments.

But there are other reasons why making a will is important, both for you and for your loved ones:

- Your will can reassure your loved ones that they're respecting your wishes after your die.
- A properly written will can help avoid disputes. Badly drafted or outdated wills can lead to disagreements – and these disagreements might need to be resolved by a solicitor. Your will should remove any doubt about who you want to benefit from your estate, which can help avoid stress for family and friends.
- Wills protect the assets that make up your estate for future generations. A well-structured will can ensure that assets are kept within the family and passed on.
- You can also use your will to record your funeral preferences. It might not be nice to think about, but arranging a funeral can be tricky – and knowing exactly how you'd like things done can really help your loved ones when the time comes.

Good to know

While you're already thinking about your will, you could also consider setting up a power of attorney. Our **Power of attorney** guide has more information about how to do this.



What happens if I don't make a will?

If you die without making a will, you're said to have died 'intestate'. In this situation, your estate is divided up according to the statutory rules of intestacy – which might not reflect your wishes about who does and doesn't benefit from your estate, and who deals with your possessions. Your assets are distributed after all debts, funeral and administration expenses, and any taxes have been paid.

You probably have opinions about how you'd like your estate to be distributed among your loved ones, so it's important to set these out in a will to avoid intestacy rules.

Don't worry if you haven't written your will yet – this guide explains how you can make a will and who you can contact for legal advice.

What are the rules of intestacy?

Intestacy rules state that:

- If you're survived by a spouse or civil partner and children, your spouse or civil partner inherits all your personal possessions and the first £270,000 of your estate, plus half of anything above this amount. Your children are entitled to the other half of this balance.
- If you're survived by a spouse or civil partner and don't have any children, your spouse or civil partner inherits your whole estate, including any personal possessions.
- If you're survived by children but not a spouse or civil partner, then your children inherit the whole of your estate.
- If you have a partner, but you aren't married or in a civil partnership, then they have no automatic right to inherit from your estate. This applies even if you've lived together for a long time or have children together.
- If you have no spouse, civil partner or children, then other relatives, such as parents, siblings, aunts and uncles, or nieces and nephews, inherit in a set order.
- If you have no surviving relatives who can inherit, your estate is passed to the Crown.

More detail about intestacy rules and how they would apply to your circumstances can be found on **GOV.UK** (page 27).

"Dad died without a will. It was really confusing trying to work out what should go to who."

Jerry, 70

Making a will

Making sure your will is written and signed properly makes things a lot easier when the time comes for your estate to be distributed. If things are done incorrectly, it can create problems for your loved ones to sort out.

When writing a will, it's important to seek professional advice to help you avoid some of the common pitfalls.

How to make a will

There are a number of ways you can make a will – you might already have an idea of which would suit you best, but it's a good idea to look at all your options.

Lawyers

When you're writing a will, it's best to get advice from a lawyer who specialises in wills and probate – for example, a solicitor or chartered legal executive. It's important to check that they're regulated with the relevant professional body, such as the Solicitors Regulation Authority (page 28). Lawyers charge either a fixed fee or an hourly rate for this work, depending on the complexity of your will – this should all be explained in their letter of engagement.

An extra benefit of using a lawyer is that they can advise you on any Inheritance Tax issues that may arise.

A lawyer may also be able to store your will safely for you – though this might cost extra. Whatever you decide, it's really important to tell your executors where your will is kept, so it's easy to locate after you die. See the section 'Choosing executors' for more information about what an executor is and what they do (see page 16).

Free Wills Month

Free Wills Month is a campaign in England and Wales that takes place every March and October. A group of charities, including Age UK, offer people over 55 the opportunity to have a simple will written or updated free of charge by a participating solicitor. Visit the Free Wills Month website (page 27) to find out more.

Good to know

Our factsheet **Getting legal and financial advice** has more information on getting professional advice. The Law Society of England and Wales (page 27) can provide you with a list of local solicitors.

Will Aid

Will Aid is a UK-wide scheme run every November. Unlike Free Wills Month, there's no age restriction, but you'll be asked to make a donation to support the work of 9 charities that take part in the scheme, including Age UK. The Will Aid website (page 28) has more information.

Banks

Some banks offer will-writing services and advice about estate planning. Contact your local branch to book an appointment with an adviser, who'll explain what the bank can offer. It's important to read the small print and be clear on any costs, as some banks charge high fees for this service.

Make your own will

There are do-it-yourself will kits and forms available to buy from stationery shops or online. However, it's easy to make mistakes, miss out important details, or not be absolutely clear what you want when filling them in, so it might not be the best way to make your will.

While it can seem like the easiest option now, it can cause costly legal problems for your beneficiaries and executors after your death. A will is a legal document and needs to be written and signed correctly – so it's best to get professional advice.

Good to know

Make sure you don't keep your will in a bank safety deposit box. While it might seem like a good idea, after your death the bank can't open the box until your executors have permission to administer your estate – and the court can't usually give this permission without your will.

What to include in your will

It can be tricky to think about what you need to include in your will. What's important is that you're as clear as possible about what you want to happen to the assets that make up your estate.

When writing your will, you should state:

- who you want to benefit from your will
- whether you wish to give any specific gifts to particular people
- where you want the 'residue' of the estate to go (any property or money left over after paying funeral and administrative expenses, legacies and taxes)
- what you want to happen if any of your beneficiaries should die before you
- whether you want to leave any money to charity
- who'll deal with your estate after your death.

Letter of wishes

A letter of wishes is a confidential document that can accompany a will. It lists specific items you wish to give to people and usually covers items of sentimental importance, such as ornaments, furniture or jewellery. However, if these are worth a substantial amount of money, it's advised you list them in your will.

Unlike a will, a letter of wishes isn't legally binding, so pick a trusted person to carry out your requests. This letter can be amended without altering your will.

Valuing your estate

Your will should cover your whole estate, so it's a good idea to draw up a list of all your assets and debts (see page 15). This gives you a clear idea of what your estate is worth, which can help you decide how you want to distribute it.

Good to know

It's important to get your assets valued regularly. Your house price or pension fund, for instance, may have dramatically changed in value since you last checked. Our factsheet **Dealing with an estate** has more information on this.

Age UK's **LifeBook** can be a handy way to keep track of important documents, financial information and possessions.

The assets that typically make up an estate include:

- any property you own in the UK or abroad
- savings in bank and building society accounts, and other savings such as Premium Bonds
- insurance such as life assurance or an endowment policy
- pension funds that include a lump sum payment on death
- investments such as stocks and shares or investment trusts
- motor vehicles
- jewellery, antiques and other valuable personal belongings
- furniture and other household contents.

It can feel uncomfortable to think about debts, but ignoring them can create issues when the time comes for your estate to be settled. It's important to gather all the information you have about them. Debts may include:

- a mortgage or equity release
- a credit card balance
- a bank overdraft
- loans.

Good to know

It's worth bearing in mind that life insurance payouts and death-in-service benefits might not form part of your estate if you've nominated a specific person to receive them – instead, they're paid directly to the recipient.

Choosing executors

Executors are legally responsible for dealing with your estate after your death. Being an executor can involve a lot of work and responsibility, so think carefully about who you appoint.

When you're choosing your executor, you should explain to them what's involved and check they're happy to do it.

You can appoint a maximum of 4 executors. It can be a good idea to choose more than one, as it means they can share the responsibility – although it's important to choose people who get on and can work well together. It also means that if any of them die before you do, there'll still be someone to deal with your estate. Alternatively, you can choose a replacement executor who can take over if this happens.

Executors are often family members, but some people choose instead to appoint a professional, such as a solicitor. Sometimes, family members and a professional might act as executors together.

The people you choose to act as executors can inherit from your will, but they aren't usually paid for their work as executors other than reasonable out-of-pocket expenses – unless they're a professional, such as a solicitor.

Appointing a professional executor

Acting as an executor isn't an easy task and your family or friends might not want to take on the role. You can appoint a professional executor, such as a solicitor or accountant, which could be especially useful if your estate is large or complicated – or if there's a chance of a dispute between loved ones. However, it's important to note that professional executors charge for their services and their fee will be paid out of your estate.

- You can find a solicitor who specialises in acting as an executor by contacting the Law Society of England and Wales (page 27). They can also help find solicitors who provide information in different languages. They won't recommend a specific solicitor, so you'll need to compare services and fees.
- Solicitors for the Elderly (page 28) can help you find a solicitor in your area. Use the tool on their website to search for solicitors by name, location or specialism.
- If there isn't someone who can act as an executor for you, there's a government official called the Public Trustee who can do so. However, it's worth noting that their fees are usually calculated as a percentage of your estate – it's not a free service. They can also decline to act as your executor. For more information, contact the Public Trustee (page 28).

"All three of my children are executors of my will. I didn't want to put the responsibility on just one of them."

Cath, 73

Trusts

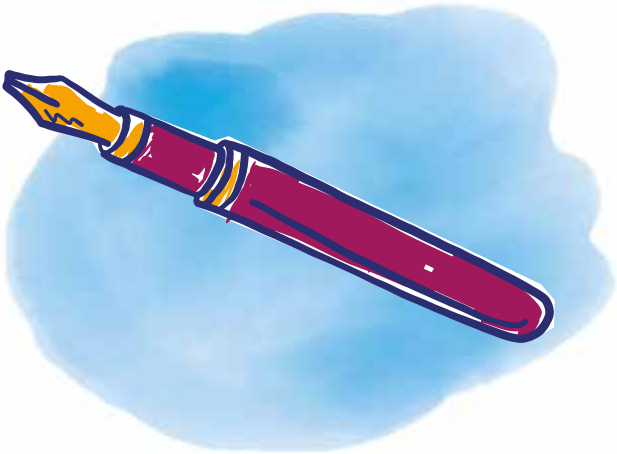
Trusts are used to look after assets for other people – for example, when someone is too young to manage their own affairs. If anyone under the age of 18 is to be a beneficiary of the trust, you should appoint at least 2 trustees or executors. If there's a trust in your will, your executors can be appointed as trustees as well. Take professional advice when creating a trust.

Leaving money to a person who receives means-tested benefits or council-funded care can sometimes affect what they're entitled to – so if you have a child or grandchild with learning disabilities, for instance, leaving money to them can be a little more complicated. Mencap (page 28) runs a free advice and information service that can guide you through leaving money to a beneficiary with care and support needs – they can also recommend specialist solicitors.

Visit **www.mencap.org.uk/willsandtrusts** for further information, or talk to your solicitor when making your will.

Next steps

Our guide **How to be an executor** has more information about what the role involves and where to turn for help if you need it.



Signing the will

It might sound like the easy bit, but signing a will is actually often done incorrectly – it's one of the most common causes of issues when trying to sort out an estate.

If the will is signed incorrectly, it won't be valid, and your wishes may not be followed.

For your will to be valid, it must be signed in the presence of 2 independent witnesses, who must also then sign it in your presence – so all 3 people should be in the room together and watch each other sign.

No one listed as a beneficiary of the will (such as a spouse or civil partner) should act as a witness – or they'll lose their right to their inheritance. Beneficiaries shouldn't even be in the room when the will is signed. It's also best not to ask an executor to act as a witness.

Important documents

When your executors come to sort out your estate, it's helpful if they know where you keep important documents such as:

- the original copy of your will and any **codicils**
- the deeds to your property, including any trust documents
- insurance policies
- documents relating to any savings, investments and pensions
- your passport
- your driving licence
- documents relating to any mortgages or loans
- utility bills.

A **codicil** is a document that makes a minor amendment to a will.

Angela decided to make her will when she found out how simple it can be.

Angela, 60, was worried to hear what could happen to her estate if she didn't make a will.

'I'd just turned 60 and I'd been thinking about making a will for quite a while. After speaking to a friend who explained how straightforward it was for her, I decided to follow her lead.

'My friend told me that my savings and possessions would be distributed with no regard to my wishes if I didn't make a will. I wanted to leave some family heirlooms to my granddaughter – it was upsetting to think that she might not get them.

'So I spoke to a local solicitor and arranged to make my will. After leaving some things to my family and friends, I also made some bequests to a number of charities.

'I was pleasantly surprised to learn that gifts to charities are exempt from Inheritance Tax.

'My will also appoints an executor to deal with the administration of my estate and to make sure my wishes are carried out.

'I feel much better knowing that the people and causes I care about will benefit when the time comes. I'm now reminding my friends to make or update their wills.'

Other things to think about

Whether you're setting up a will or updating an existing one, there are things it's worth bearing in mind.

Changing a will

If you don't keep your will up to date, it might lead to complications when your estate is dealt with. For example, your will might refer to a house you no longer own, or mention older grandchildren but not younger ones.

Good to know

Whether you want to make a large or small change to your will, never make alterations on the original document – either add a codicil (see page 23) or make a new will.

You can change your will at any time, as long as you have **mental capacity** to do so. In fact, it's a good idea to review your will every 5 years in case your circumstances are different.

When we talk about **mental capacity**, we mean someone's ability to make decisions and understand the consequences of them.

If you marry, remarry or enter a civil partnership, this automatically revokes (cancels) any will you previously made. If you marry, separate or divorce, then you should make a new will. Divorce doesn't automatically invalidate a will made during the marriage – but it does stop your ex-spouse or civil partner from benefitting if they're mentioned in the will.

If you only want to make a minor change, you can do so using a 'codicil'. This must be signed and witnessed in the same way as the will (see page 19) – but the witnesses don't necessarily have to be the same ones that witnessed the will signing.

If you want to make a substantial change, you need to make a new will revoking the old one. If you do revoke an old will, either destroy it or make it clear it's revoked to avoid confusion in the future.

Good to know

The Government advises you to destroy an old will either by burning it safely or tearing it up.

Inheritance Tax

Currently, you don't usually need to pay any Inheritance Tax (IHT) on the first £325,000 of your estate. This is called the 'nil-rate band'. However, IHT is paid at a rate of 40% on the proportion of your estate valued above the nil-rate band.

If you leave your home or other property you lived in to your child or your grandchild, you can gain an additional nil-rate band of up to £175,000. This is called the residence nil-rate band – it's a complicated area, so you should seek specialist advice.

There's no IHT to pay if you leave your whole estate to your spouse or civil partner. If you don't use all of your nil-rate band, when your spouse or civil partner then dies, their estate can add your unused portion to their own nil-rate band. In the same way, if your spouse or civil partner dies before you and their estate doesn't use all their nil-rate band, any unused allowance can be transferred to your estate.

Gifts to charity are completely exempt from IHT. If your estate is liable for IHT and you leave 10% or more of it to charity, then a reduced IHT rate of 36% may be applicable to the rest of your estate. Rules apply to the reduced rate of IHT, so you need to seek professional advice.

You might want to give money or property to your loved ones before you die. But it's important to note that gifts made while you're alive can be liable to IHT, depending on their value and when they were given. In addition, if you die within 7 years of making a gift of money or property that exceeds the value of £3,000 in any one year, these gifts use up your nil-rate band, so not all of the £325,000 is available when you die. It's best to seek advice before making lifetime gifts.

Supporting your favourite causes

When making a will, it's natural to want to make sure that loved ones are cared for. But through your will you can also leave something to the causes that mean the most to you.

There are different types of gift you can leave in your will:

- **residuary** – a proportion of your estate given when all other costs and gifts have been paid
- **pecuniary** – a fixed sum of money
- **specific** – a named item, such as a house, item of jewellery or piece of furniture.

If you plan to leave a gift to a charity in your will, make sure you include the charity's full name, address and registered charity number. Incorrect information may result in your chosen charity not receiving the gift.

See the previous page for information about how gifts left to charity are affected by Inheritance Tax.

Next steps

Inheritance Tax is a complicated area, so it's important to seek specialist advice, especially if trusts are involved. Call the HMRC helpline for probate and Inheritance Tax enquiries (page 27) for more information or take advice from a specialist lawyer.

Useful organisations

Age UK

We provide information and advice for people in later life through our Age UK Advice Line, publications and website.

Age UK Advice: 0800 169 65 65
Lines are open seven days a week from 8am to 7pm.
www.ageuk.org.uk

In Wales, contact Age Cymru Advice: **0300 303 44 98**
www.agecymru.org.uk

In Northern Ireland, contact Age NI: **0808 808 7575**
www.ageni.org

In Scotland, contact Age Scotland: **0800 124 4222**
www.agescotland.org.uk

Citizens Advice

Network of centres offering free, confidential and independent advice, face-to-face or by telephone.
In England, call Adviceline: **0800 144 8848**
In Wales, call Advicelink: **0800 702 2020**
www.citizensadvice.org.uk

Free Wills Month

Several charities, including Age UK, join together to offer those aged 55 and over the opportunity to have their wills written or updated free of charge by selected solicitors in locations around England and Wales.
www.freewillsmonth.org.uk

GOV.UK

Official Government website with information on public services such as legal advice and legal aid, benefits, jobs, pensions and health services. Use the search function to access the legal aid eligibility calculator.
www.gov.uk

In Wales, visit **www.gov.wales**

Law Society of England and Wales

Representative body for solicitors in England and Wales. Provides information on legal issues, including making a will. You can use the 'find a solicitor' search tool on their website to find a solicitor.
www.lawsociety.org.uk/for-the-public

HMRC helpline for probate and Inheritance Tax enquiries

For information about taxes, including probate, Inheritance Tax and trusts and deceased estates.
Tel: **0300 123 1072**
www.gov.uk/government/organisations/hm-revenue-customs/contact/probate-and-inheritance-tax-enquiries

Mencap
Charity that can guide you through leaving money to a beneficiary with care and support needs.
Tel: **0808 808 1111**
www.mencap.org.uk/willsandtrusts

Public Trustee
Government official who can be an executor if there is no one suitable to appoint.
Tel: **020 3681 2759**
www.gov.uk/public-trustee-executor-will

Solicitors for the Elderly
Independent national organisation of solicitors, barristers and legal executives who can provide legal help to older and vulnerable people, their families and carers.
Tel: **0844 567 6173**
www.sfe.legal

Solicitors Regulation Authority
Independent regulatory body of the Law Society of England and Wales.
Tel: **0370 606 2555**
www.sra.org.uk

Will Aid
Partnership between the legal profession and nine UK charities, including Age UK, to help people have their wills written professionally.
Tel: **0300 0300 013**
www.willaid.org.uk

Help us be there for someone else

We hope you found this guide helpful. When times are tough, it's so important to get some support. Did you know you could help us reach someone else who needs a little help? Here's how:

Give your views on guides like this

Our Readers' Panel helps make sure the information we produce is right for older people and their families. We'd love you to join. Go to **www.ageuk.org.uk/readers-panel**.

Donate to us

Every donation we receive helps us be there for someone when they need us. To make a donation, call us on **0800 169 8787** or go to **www.ageuk.org/donate**.

Volunteer with us

Our volunteers make an incredible difference to people's lives. Get involved by contacting your local Age UK or at **www.ageuk.org.uk/volunteer**.

Campaign with us

We campaign to make life better for older people, and rely on the help of our strong network of campaigners. Add your voice to our latest campaigns at **www.ageuk.org.uk/campaigns**.

Remember us in your will

A gift to Age UK in your will is a very special way of helping older people get expert support in the years to come. Find out more by calling **020 3033 1421** or visit **www.ageuk.org.uk/legacy**.

How we can help you

If you're thinking of remembering Age UK in your will, our Legacy team is happy to discuss any questions you may have.

Please contact the Legacy team on **020 3033 1421**, email **legacies@ageuk.org.uk** or write to Legacy team, Age UK, 7th Floor, One America Square, 17 Crosswall, London EC3N 2LB.

Please note that Age UK cannot give any specific legal advice on your personal circumstances and you should refer to your solicitor for this.

Thank you.

A gift in your will could provide a lifeline for someone who is struggling

Age UK is the UK's leading charity for older people. With more and more older people facing a later life they never expected, we anticipate an ever-increasing need for our services. We rely on gifts left to us in wills to ensure we can continue to be here, day in, day out, with free advice and support for older people and their families in the future. Leaving us a gift in your will could help to:

- continue our friendship services that bring companionship to those who are lonely
- provide free, expert information and advice on all areas relating to ageing to those that need it, when they need it
- answer calls to our Advice Line from people needing help and support
- campaign for older people's rights to equal and fair treatment
- fund vital research projects that help shape services for older people.

Thanks to the generosity of our supporters, Age UK has made an enormous difference to the lives of older people who need us the most. You can find out more about what we do and why we do it by visiting our website at **www.ageuk.org.uk/legacy**.

What should I do now?

You may want to read some of our relevant information guides and factsheets, such as:

- **Thinking about end of life**
- **How to be an executor**

You can order any of our guides or factsheets by giving our Advice Line a ring for free on **0800 169 65 65** (8am-7pm, 365 days a year).

Our friendly advisers are there to help answer any questions.

All of our publications are available in large print and audio formats.

There's plenty of really useful information on our website, too. Visit **www.ageuk.org.uk/planningahead** to get started.

If contact details for your local Age UK are not in the below box, call Age UK Advice free on **0800 169 65 65.**

0800 169 65 65
www.ageuk.org.uk

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