

myguide

Safeguarding your inheritance

Your guide to making a will



myers&co
solicitors

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Introduction

Making a will is one of the most important things you can do to protect your finances and to make sure that, when you die, your money, property and personal possessions go to the people you want them to. It can also be a useful way of limiting the amount of inheritance tax that needs to be paid and supporting a charity that is important to you.

If you die without making a will, the question of who should get what will be determined by the rules of intestacy, which could result in someone you wanted to benefit from your estate being excluded, or someone you did not want to benefit receiving an unintended windfall.

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We found the whole experience of using Myers & Co Solicitors, friendly, polite and totally hassle free.

It is advisable for everyone to make a will, but it is especially important for unmarried partners or those with step-children who have no automatic right to inherit. It is also

important for those whose affairs are complicated – perhaps you have been married before, have investment properties or a business to think about, or you have assets located abroad.

Myers & Co Solicitors is here to make sure that everything is done properly so that, when the time comes, you can rest assured that your wishes will be carried out.

This guide is designed to answer some of the questions we are most frequently asked about making a will if you live in England or Wales. We hope you find it useful.

What do I have to do to make a valid will?

To make a valid will, you need to:

- be aged 18 or over;
- record the terms of your will in writing;
- sign your will – or get someone to sign it for you if you are unable to do it yourself;
- sign your will in the presence of two witnesses, who are also aged 18 or over and who do not stand to benefit from the will;
- have the mental capacity to understand what you are doing;
- make the will voluntarily and without pressure from anyone else; and
- have full knowledge of what the will says and approve its content.

If the will was signed by someone else on your behalf, it must contain a statement which confirms that you understood its contents before it was signed for you.

In all cases, the will must also contain a statement (known as an 'attestation clause') confirming that it has been signed in the presence of two named witnesses.

If you have made a will before, any new will you make must confirm that the new will revokes any earlier wills.

If you are ill at the time of making your will, it may be necessary for you to obtain a statement from your GP or another medical practitioner which confirms that your illness, or any medication you may be taking, has not impaired your judgement or affected your ability to make decisions for yourself.

If the terms of your will may prove controversial or come as a surprise to your family – for example, because you have decided to leave a large sum of money to charity or have elected to make no (or only modest) provision for one of your children – it may be prudent to explain the reasons for your decision.

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I have always found Stephen Myers to be extremely welcoming, efficient, helpful. The services of the practice are reasonably priced and I consider them to be my family solicitor.



What should I include in my will?

It is up to you what provisions you make in your will.

Things you should think about include:

- how much your estate will be worth after any debts you owe have been settled and your funeral paid for;
- whether inheritance tax will be payable and, if so, whether it should be paid by you or your beneficiaries;
- whether you have any jointly owned property or joint bank accounts, because your interest in these will pass automatically to the person you share them with and so cannot be included in your will;
- who you want to benefit from your estate and how you want them to benefit by inheriting property or money or receiving some of your personal possessions;
- what should happen if someone you want to benefit dies before they receive their inheritance – who should inherit in their place;
- who you want to look after your children if they are under the age of 18 or suffer from a disability;
- whether you wish to leave a legacy to a charity; and
- who you want to look after your affairs and ensure that the terms of your will are respected.



Do I need a special type of will if I am married, in a civil partnership or have children?

There is no need to make a special will if you are married, in a civil partnership or have children. It is important to make sure that if your children are aged 18 or under, or require ongoing care because of a disability or other affliction, a guardian is appointed for them.

Married couples, or those in civil partnerships, do sometimes choose to make joint wills which mirror each other. This is typically the cases with smaller estates and where each partner simply wants to leave everything to their spouse.

Can I leave money to charity?

Many people choose to leave money to charity in their will and usually relatives and friends respect and support this decision. However, problems can arise where the amounts to be handed over are significant, or where a decision has been taken to leave everything to a charitable cause.

You are free to dispose of your estate as you wish. However, if you know or suspect that your decision to leave money to charity may surprise or upset your loved ones, it may be sensible to talk to them about your decision and to explain your reasons.

Can I change my will later?

You can change your will at any time if you want to. Small changes can be made by making an official alteration to the original will (called a 'codicil'). More significant changes will require you to revoke your previous will and make a new one.

There are many reasons why you might want to change your will. For example, if your spouse dies, when you get married or divorced or have children.

Everyone should review the terms of their will on a regular basis to ensure it still reflects their wishes and takes advantage of any available tax exemptions or reliefs. We recommend a review is carried out every three to five years.

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We have had a few matters to sort and this has been done, putting our minds at ease. Thank you very much.

Can the terms of my will be challenged or ignored?

Provided the legal formalities needed to make a valid will have been complied with, the terms of your will should be respected.

Problems normally arise where family members suspect that their relative has been pressurised or coerced into making a will or where they believe a mental illness has affected their relative's decision-making.

On rare occasions, there may also be suspicions of fraud. In these circumstances, enquiries can be made to check that everything has been done properly and there has been no foul play.

Difficulties can also arise where you have decided to exclude from your will someone who was financially dependent on you. There are special rules that apply in this case.

Using a solicitor to prepare your will can greatly reduce the possibility of the terms of your will being challenged.

How can Myers & Co help?

At Myers & Co Solicitors, our experienced private client solicitors will guide you through what you need to do to make a valid will. All you need to do is tell us what you want and we will do the rest.

Preparing your will

Our complete will writing service includes:

- taking your full instructions;
- assessing the likely value of your estate;
- advising you on the tax implications;
- counselling you on how best to achieve your desired outcomes;
- preparing your will; and
- storing and registering the will on your behalf.

Home visits

We can visit clients at home, in hospital or in a care home.

Storing and registering your will

We will look after your will safely, without cost.

However, as time passes and circumstances change there is a risk that once you have died your remaining family may be unable to locate your will and they may be unaware that the original is with us. To avoid this risk, we can also register your will on the Certainty National Registry of Wills.

Acting as your executor

We can also act as your executor if you would like us to.

Speak to your solicitor for further details.

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We were very pleased with the level of service throughout the last couple of years. When my mum died and we had to sort the will out to go to my dad, then my dad died. The will and the land registry was sorted without any fuss, thank you.

What information will my solicitor need?

Before you come to see us to prepare your will, it would be useful if you could prepare:

☒ A list of full names and addresses for:

- ☒ your partner, spouse or civil partner;
- ☒ children;
- ☒ your chosen executor(s); and
- ☒ your chosen guardian(s).

☒ A list of your assets, including:

- ☒ any property or land;
- ☒ vehicles;
- ☒ money at the bank;
- ☒ investments;
- ☒ pension entitlements;
- ☒ valuable personal possessions such as jewellery and paintings.

☒ A list of your debts and liabilities:

- ☒ mortgages;
- ☒ loans;
- ☒ hire purchase agreements.

☒ Details of your chosen beneficiaries and what it is you would like them to receive:

- ☒ family;
- ☒ friends;
- ☒ charities;
- ☒ other.

☒ Details of anything you are unsure about and would like specific advice on.

Other legal considerations

Appointing guardians and executors

The person or persons you appoint to look after your children will be known as their 'guardians'. The person or persons you appoint to look after your affairs will be known as your 'executors'. It is advisable to check with the people you propose to nominate into these roles to make sure they are happy to carry them out.

Choosing your executors

Executors must comply with certain legal requirements, which can be challenging for relatives or friends appointed to this role.

To help alleviate the burden, you could consider appointing a professional executor, such as a solicitor or accountant, to help them.

A letter of wishes

You might also consider writing a letter of wishes to explain to your executors how you would like the terms of your will to be carried out.

This is also recommended if you think that some of your decisions will come as a surprise or be unpopular.

A lasting power of attorney

At the same time as preparing your will, you may also like to consider making a lasting power of attorney. This is a legal document that lets you appoint one or more people you trust to make decisions on your behalf in the event you lose mental capacity to make them yourself. These people are known as your attorneys and can be empowered to make decisions about your financial affairs and any property you own, as well as decisions concerning your health and welfare.

We have produced a client guide to making a lasting power of attorney, which you can request from your solicitor or our receptionist.

Glossary of legal terms

Attestation clause: a statement in a will which confirms that it has been signed ('executed') in the presence of two named witnesses.

Beneficiaries: the people who will benefit from your will by inheriting your estate.

Codicil: a formal document, signed by the person who made the original will and witnessed by two people, which modifies or amends the original will.

Guardians: the people you appoint to look after any children you have aged 18 or under or who have an ongoing need to be cared for.

Estate: the money, property and personal possessions you own when you die.

Executors: the people you appoint to deal with your estate and ensure that the terms of your will are carried out.

Intestacy: the rules that govern who should inherit an estate where a will has not been made.

Lasting power of attorney: a document which lets you appoint one or more people of your choosing to manage your property and financial affairs and/or to make decisions about your health and welfare when you do not have the capacity to make those decisions for yourself.

Letter of wishes: a document that accompanies your will and provides instructions to your executors about what they should do to ensure your wishes are carried out.

Mirror wills: wills made by two people (usually spouses or civil partners) which are in the same terms.

Mutual wills: wills which prescribe how a person's estate should be dealt with and which cannot be revoked or overridden after death.



Legal advice for you and your family

- Dispute resolution
- Employment problems
- Residential conveyancing
- Wealth protection
- Wills and probate

Legal advice for you and your business

- Corporate
- Commercial agreements
- Commercial property
- Construction law
- Dispute resolution
- Employment law
- Intellectual property

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*Very good advice given
throughout, money saved,
excellent service and advice*

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