



The importance of a valid will

At a glance

- A well-structured will ensures your legacy and wishes are properly fulfilled
- Avoid intestacy laws and unnecessary family stress by having a valid will
- Regularly review your will with legal experts to protect your beneficiaries

Introduction

As the UK undergoes the largest intergenerational wealth transfer in history, with trillions expected to be passed down over the next few decades, the significance of having a valid will cannot be overstated. Proper estate planning ensures that assets are distributed as intended, reducing financial and emotional burdens on loved ones. Despite its importance, a significant proportion of individuals in the UK still do not have a will, leaving their estates subject to intestacy laws that may not reflect their wishes.

This guide outlines the key considerations for drafting a will, and best practices for ensuring your estate is managed according to your wishes.

Why do I need a will?

A will is more than just a legal document; it is a fundamental part of a comprehensive financial and estate plan. Here are the key reasons why a will is essential:

1. Control over your assets

A will ensures that your assets are distributed according to your wishes rather than being allocated based on legal intestacy rules.

This means you can decide who inherits your estate, ensuring financial stability for loved ones and causes you care about.

2. Appointment of guardians for minor children

For those with children under 18, a will is the only way to legally appoint guardians who will take care of them should anything happen to you. Without a will, the decision falls to the courts, which may not align with your preferences.

3. Minimising family disputes

A clearly written will helps prevent potential conflicts among family members by providing transparency and clarity. This is particularly important in blended families or situations where certain heirs may have differing expectations regarding inheritance.

4. Tax efficiency and estate planning

Strategic will planning can help reduce inheritance tax liabilities. By taking advantage of available tax reliefs, trusts and charitable bequests, you can ensure that your estate is distributed in a tax-efficient manner while maximising the benefits for your beneficiaries.

5. Philanthropy and legacy planning

A will enables you to leave a lasting legacy by supporting charitable causes. Gifts left to registered charities are exempt from inheritance tax, and leaving at least 10% of your estate to charity can reduce the overall tax rate from 40% to 36%.

6. Specifying funeral and end-of-life wishes

Although not legally binding, many people use their will to outline funeral preferences, reducing the burden on family members who would otherwise have to make difficult decisions during an emotional time.

What happens if I die without a will? (intestacy)

If one dies without a valid will, known as dying intestate, this means the estate is distributed according to statutory intestacy rules. These laws dictate who receives your assets, and the results may not reflect your wishes. Key consequences include:

- **Loss of control over distribution** – The law determines who inherits your estate, potentially excluding partners, stepchildren or close friends you would have wanted to benefit.
- **Potential family disputes** – Without clear instructions, disputes among family members are more likely, leading to costly and prolonged legal battles.
- **Unmarried partners receive nothing** – Cohabiting partners have no automatic legal right to inherit under intestacy laws, leaving them financially vulnerable.
- **Delays and higher costs** – The probate process becomes more complex and expensive when there is no will, potentially depleting the estate before beneficiaries receive their inheritance.
- **Assets may go to the government** – If no eligible relatives are found, your entire estate could pass to the Crown rather than to individuals or causes of your choosing.

The rules of intestacy differ under English and Welsh, and Scottish law. We recommend consulting a trusted legal professional for advice tailored to your local jurisdiction.

Case study

To illustrate the risks of dying intestate, consider the following scenario:

Sarah, a successful business owner, passed away unexpectedly without a will. She had always intended to leave her company to her long-term partner, but as they were not married, her estate was distributed among distant relatives under intestacy laws. Her partner, despite having contributed significantly to the business, received nothing, and legal disputes resulted in costly court proceedings. Had Sarah written a will, she could have ensured her assets were distributed according to her wishes, preventing financial hardship and legal conflict.

What do I need to consider when drafting a will?

1. Meeting legal requirements

For a will to be legally valid in England and Wales it must:

- Be in writing
- Be signed by the testator (the person making the will)
- Be witnessed by two independent adults who are not beneficiaries

For a will to be valid in Scotland, it must conform to the Requirements of Writing (Scotland) Act 1995. Please consult a trusted legal professional for advice tailored to your local jurisdiction.

2. Choosing an executor

An executor is responsible for administering your estate according to your will. This should be a trusted individual or professional, such as a solicitor, who can handle legal and financial responsibilities efficiently.

3. Identifying beneficiaries

Clearly naming beneficiaries prevents confusion or misinterpretation. This includes family members, friends, charities or any other entities you wish to benefit from your estate.

4. Use of trusts

Setting up trusts can help protect assets, provide for minors or vulnerable beneficiaries and optimise tax efficiency.

5. Inheritance tax planning

By incorporating tax-efficient strategies, such as utilising nil-rate bands, gifting and charitable donations, you can minimise the inheritance tax burden on your estate.

6. Regularly updating your will

Your will should be reviewed periodically and updated to reflect major life events such as marriage, divorce, the birth of children, sale of a business or moving to a new country, where the succession laws may differ.

7. Secure storage

Your will should be stored in a safe yet accessible place. Inform your executor and a trusted family member or advisor of its location to prevent difficulties in locating it when needed.

Incorporating digital assets into end-of-life planning, and other considerations

1. Managing digital assets

With the rise of online banking, social media and digital investments, ensuring access to digital assets is increasingly important. Your will should include instructions on how these assets should be managed or transferred.

2. Power of attorney

Appointing a power of attorney ensures that trusted individuals can manage your affairs if you lose capacity before death. This is a crucial step in protecting your financial and personal interests.

3. Letter of wishes

A letter of wishes, stored alongside your will, provides non-legally binding guidance to executors or trustees, offering clarity on personal matters that may not be legally enforceable but are important to you.

Conclusion

A valid and well-structured will is a cornerstone of effective estate planning. Indeed, taking the time to create and maintain a will is one of the most important financial decisions you can make, providing certainty, peace of mind and financial security for those you care about most. Without a will, your estate could be subject to intestacy laws that may not align with your intentions, leading to unnecessary financial and emotional strain on your family.

By engaging with professional legal and financial advisors, regularly reviewing your will and incorporating strategic tax planning, you can protect your beneficiaries and ensure that your wealth is distributed according to your wishes.

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