

Frequently asked questions

Why do I need to make a will?

Making a will is the only way of ensuring that your wishes are carried out after your death.

Having a will means you can control what happens to your property when you die and provide for those close to you in the best possible way. It spares those you love unnecessary anxiety and hardship: not having a will can leave your family and friends with a legal and financial mess to sort out. If you're married, it is likely you'll want your spouse to live in the family home for as long as they wish without being forced to sell it to pay any children's inheritance. Even if you have no close family, it is still common sense to make a will, as otherwise your money may go to people you never intended to benefit.

If you die without a valid will, intestacy law applies to your estate. Second marriages, and relationships with children from a first marriage or stepchildren can create a complex web. If you are not married to your partner, your estate may pass to your children or your parents or siblings. If you have no family, your estate may well go to the Crown!

Is there anything I need to do before I make my will?

Before arranging to have your will written, it's worth drawing up a list of your assets and debts. Assets could include any property you may own, savings, stocks and shares, insurance policies or specific items such as furniture or jewellery. Debts could include a mortgage, a credit card balance or perhaps an outstanding loan. This will give you a clearer idea of what your estate will be worth. You can then decide how you wish to share this out so that your estate goes to the people and causes that you care about.

Where should I keep my will?

The obvious answer is in a safe place – at home if you are prepared to take the risk, though it's more sensible to keep it with your solicitor or bank. Remember to tell your executor, family or friends where to find it.

How often should I review my will?

It is very good practice to review your will perhaps every five years, or sooner if your circumstances change.

How do I make sure my will is valid?

- You must have what's called 'testamentary capacity', i.e. you must be over 18 and understand what you are doing.
- You should appoint executors – people who will ensure that your instructions are carried out and that your beneficiaries receive what's due to them.
- It must be in writing, be clear that it is a will and intended to replace any previous will.
- Finally, it must be 'executed' – that is, signed in the presence of two independent witnesses who also sign the will at the same time. The witnesses do not need to see the will, and a witness cannot be a beneficiary or a spouse of a beneficiary. Failure to follow these rules is the most common reason for invalid or partly failed wills. This is why we would always recommend that you seek the advice of a qualified professional such as a solicitor to make and update your will.



Frequently asked questions (cont)

How do I change or update my will?

It is important to review your will every five years, or sooner if your circumstances change, e.g. due to bereavement, divorce, financial status, the birth of children or grandchildren.

What is the difference between a will-writing service and a solicitor?

Will-writing services are often run by people who are only trained in will-writing but are not qualified solicitors. This can mean no regulatory protection for you if you need to seek a claim or compensation. We would always recommend checking the qualifications of the person offering the service, as well as their charges and liability insurance. Generally, we would recommend an independent solicitor.

Details of your nearest solicitors can be found at the Law Society of England and Wales website solicitors.lawsociety.org.uk/

Who should I appoint as executor?

Someone who you think could take on the responsibility of dealing with your estate after your death. You may want to think about people's relative ages and health. You should ask the people you want to be executors whether they will agree to do so. It is recommended that you appoint at least two executors.

For a married couple it is normal for the spouse to be one of the executors, as they are likely to be the main beneficiary.

What happens if I want to change my executors?

You should make an alteration to your will by speaking to your solicitor who will advise you whether you need a codicil (see above) or a new will (if you are also making other changes).

What if I have no-one to act as my executor?

Remember that an executor can also be a beneficiary and they can be friends or family.

If you consider that there is no one to administer your estate, then you could ask your solicitor whether they or someone within the firm would act as your executor. Please bear in mind the cost implications involved should you choose this option. In some circumstances, Age UK Gloucestershire may be appointed as your executor.

Frequently asked questions (cont)



Can an executor or a beneficiary be a witness?

An executor can be a witness provided they do not receive anything in the will. A beneficiary cannot be a witness as this could make the gift to them invalid. A beneficiary can be an executor provided they do not witness the will.

How much should I expect to pay?

The cost varies but a solicitor is likely to charge anything from £70 to £200 for preparing a will in a normal case, depending on the circumstances and complexity.

Can I change my will once I have made it?

Yes. It is very good practice to review your will perhaps every five years, or sooner if your circumstances change.

If you do need to change it, make sure you seek advice if you're at all unsure. Making changes like crossing things out of an existing will could make it invalid.

I have a homemade will from the post office/stationers. Is that good enough?

Age UK does not recommend homemade wills, because if they don't conform to the strict requirements of the law, they could be invalid. If you are unsure whether your will is valid, seek legal advice.

What is Inheritance Tax and can I reduce this?

If your property and possessions are worth above a certain allowance (currently £325,000 in February 2014) they may be liable to inheritance tax (IHT) upon your death (currently at 40 per cent). The rate and threshold of IHT does change, so be sure to check the current year's allowance. Gifts in a will to a spouse, civil partner or charity are generally exempt and the surviving spouse or partner can benefit from the transfer of the first partner's IHT allowance (effectively not paying tax up to £650,000 at current rates).

You may also be interested to know that as from 6 April 2012 there is a reduced rate of IHT from 40 per cent to 36 per cent for estates leaving 10 per cent or more to charity.

Inheritance Tax is complicated, so do seek up-to-date legal advice.

Can Age UK give me further advice on making a will?

If you would like information on making or updating your will, please download a copy of our free *Wills and Estate Planning* guide at

www.ageuk.org.uk/gloucestershire/publications