

Your Will Made Easy



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New Approach Wills



Discover How To:-

- Plan Your Will
- Write Your Will
- Sign & Execute Your Will.

Why Now is The Time to Write Your Will.

- ❖ Dying intestate – without a will – means that your possessions will be distributed according to the laws of intestacy – which probably won't be in accordance with your wishes.
- ❖ In your will you can appoint executors and guardians – people of your choice – to look after your property and children (under 18).
- ❖ Administering an estate with a will & a grant of probate is far quicker and cheaper than administering an estate without a will.
- ❖ It's a common misconception that husbands and wives are automatically entitled to inherit everything from each other, this is not the case.
- ❖ If you are not married or in a civil partnership, your partner will not inherit unless you have a will.
- ❖ You may want to ensure certain family members do not inherit part of your property. This can only be done with a will.
- ❖ You may want to leave gifts to friends or to charities. This can only be done with a will.

5 Easy Steps.

1. Work out the Value of your estate.

Make a list of everything you own minus anything you owe.

2. Decide who you'd like to benefit.

Gifts to your children, family & friends or gifts to your chosen charities.

3. Chose your executors.

Someone you trust to carry out your instructions after your death. (Can also be a beneficiary)

4. Chose Guardians for dependent children.

Someone you trust to look after your children (under 18).

5. Make a list of any questions you have.

Consider if you have any special requirements. For instance you may need to create a trust in your will or exclude somebody from you will.

Planning Your Will.

Use our handy tables & checklists to:-

- **Work out the value of your estate.**
- **Decide who you want to benefit from your estate.**
- **Decide who you want to deal with your affairs after you've gone.**

1. Work out the value of your estate.

Assets.

Your Home (your share)	
Other Property/land	
Cars etc	
House contents & items of value eg art, jewellery.	
Money in banks/building societies.	
Shares/investments/premium bonds etc.	
Insurance & pensions.	
Other.	

Total £ .

Liabilities.

Your mortgage.	
Loans & overdrafts.	
Credit Cards.	
Other.	

Total £ .

Total Assets. (assets – liabilities) = £

2. DECIDE WHO YOU WOULD LIKE TO PROVIDE FOR.

Name & Address	% Share	Amount £	Specific Item

3. **D**ecide who you want to deal with your affairs.

Your Name & Address.	
Your Partner's name & address (if different).	
Your Executors. (Up to four people you trust to carry out your wishes).	
Children's full names, addresses (if different) & DOBs.	
Guardian's full names & addresses (for any children under 18.)	

Write Your Will.

Making a Will gives you peace of mind. It demonstrates your generosity and allows you to appoint people who you trust to administer your estate. You can leave legacies to friends & charities and include your funeral wishes.

The Scope of a Will

Your Will disposes of everything you own except:

- assets which you own jointly with someone else (such as property or bank accounts), which pass to the survivor(s) automatically on your death;
- discretionary benefits from pension schemes or other types of trust.

If you own an asset with others as tenants in common, your share or interest will pass under your Will.

Most wills follow the same basic format.

1. Testator's name and address.

Your name & address.

2. Revocation Clause.

For the avoidance of doubt, it is important to make it clear you are revoking (replacing) all previous Wills. Wills are automatically revoked on marriage unless you state otherwise and name the person you intend to marry. Subsequent divorce does not revoke the Will, but any gift or provision for a former spouse will fail and be treated as if they had died.

3. Appointment of Executors/Trustees.

Executors are the people you have chosen to deal with your estate according to the instructions in your Will after your death. They obtain authority to do this by 'proving' the Will at a probate registry, which issues a grant of representation. The grant will need to be seen by institutions holding your assets and investments before your executors can sell or transfer them (unless their value is below a minimum value).

It is not necessary to use a professional to obtain probate, but it can be a complex and very time-consuming process and many executors seek professional help with some or all of the process. A professional will charge for their time in obtaining probate, as can any professional acting as your executor or trustee.

Your executors are also referred to as trustees because technically they are also the trustees of your residuary estate (whether or not you have created other continuing trusts in your Will).

4. Appointment of Guardians (for minor children).

Guardians are the people you have chosen to look after your children after your death.

5. Burial Wishes.

Here you can outline your wishes for disposal of your body and for the conduct of your funeral. (It may be wise to leave a letter of wishes containing these instructions with your executors as they may not have found your will or retrieved it from storage when they meet with funeral directors or clergymen/women and thus may be unaware of your wishes.)

6. Gifts of chattels, personal items & specific sums of money.

Here you detail gifts of personal items such as jewellery & other keepsakes & sums of cash to family friends or charities.

7. Trusts of home/property (if required).

Creating a trust in your will can protect part of your property from residential care fees, protect your children if your partner remarries after your death and protect your grandchildren from the effects of divorce or bankruptcy. To create a trust over your property, the ownership of the property is severed so you become Tenants in Common and are able to choose what happens to your share of the property at the end of the trust. This guarantees at least half of your property is protected, or that at least half of the property is passed to bloodline children and does not pass to a second spouse after re-marriage. The survivor benefits for the duration of the trust (usually their life).

(Currently, if 50% of a property is owned by a trust then when assessing assets for purposes of calculating liabilities for care home fees, the Local Authority must value the property at zero. (The Palfrey Principle.))

8. Residue of estate to spouse, (substitute children, others).

It is the job of your executors to pay any debts in your sole name at the time of your death, to pay for the funeral if not pre-paid or pre-arranged and to pay the costs of probate and administration. Ongoing trustee costs will be paid by any relevant trust.

Inheritance tax will be due if your estate is worth more than the combined tax reliefs (such as agricultural or business reliefs), exemptions (such as gifts to spouses and charities) and nil rate bands available to your estate (personal, transferable and residential). Tax may also then be due relating to transactions in the previous seven or even fourteen years. Any tax due has to be paid by your executors before they can apply for probate and get control of the assets. Tax due can be transferred directly from most bank accounts, but loans may have to be arranged against property if insufficient cash is in the estate.

Whatever is left is classed as **your residue or your residuary estate** and is then distributed according to your wishes, taking into account any guidance you have left for your trustees.

9. Attestation Clause.

You must date and sign the Will in the presence of two independent witnesses (not people who are due to benefit under the Will or who are a spouse / civil partner of a beneficiary) who also sign and give their contact details.

Many wills will also include

The STEP administrative provisions are contained in a separate document available online at http://www.step.org/sites/default/files/Comms/SSP2_rebrand.pdf. The provisions make the administration of your estate easier and more efficient. This set of comprehensive provisions is applied to every Will because it is more efficient than copying them into the Will, and it is better for your executors to have some powers they may not need to use rather than insufficient powers available to them.

Sign & Execute Your Will.

Your Will must be executed by you ('the Testator') in the following manner to ensure that it is effective and that your estate is dealt with as you wish.

The execution of your Will involves you, together with, two independent witnesses. Your Will must be executed in the following manner to ensure that it is effective.

In addition the Will should be signed by the Testator and both witnesses in the same colour i.e all completing in black ink.

Please read and follow the simple checklist below when signing and witnessing your Will:

- ✓ **Do** have TWO independent witnesses present at all times when signing your Will
 1. Witnesses do not need to read the Will or know its contents, although they should be told what it is. They are simply witnessing your signature and acknowledging that you have signed the Will freely, and on the basis that the contents of the Will have been understood and approved by you.
 2. Witnesses must be over 18 years old (do not let a minor witness your Will).
 3. Witnesses need to be independent and should not be related to you or anyone mentioned in your Will, either by blood, marriage or civil partnership, however your witnesses may be related to each other.

- ✓ **Do** in the presence of your two witnesses and in the space provided:
 4. Write the date clearly in full, including the year e.g. 1st day of January 2021 on the final page.
 5. Sign with your usual signature on the final page whilst your witnesses watch.
 6. In your presence, ask your witnesses to add their usual signatures on the last page together with their name, address, phone number and occupation.
 7. If you need to correct your Will in any way, make sure you do so before it is signed and the amendment must be initialed by you and both your witnesses.

All Wills have to be signed and witnessed correctly to make them effective. Failure to do so will make your Will invalid.

✗ **Do not** ask a beneficiary, nor the spouse/registered civil partner of a beneficiary to witness the Will, as any benefit or interest to which they are entitled within the Will, will be lost.

✗ **Do not** use correction fluid on your Will if you make a mistake.

✗ **Do not** fasten anything to your Will e.g. staples, paperclips.

Once your Will has been signed and witnessed correctly, make sure you store it somewhere safe. It's also a good idea to let your executors know where it is kept.



An example of a correctly signed and witnessed Will:

Signed by **Mr John Doe**, to give effect to this Will, on

Date 8th day of May 2020

SIGNATURE
J.Doe

We confirm this Will was signed first by **Mr John Doe** in our presence and then by both of us in the presence of **Mr John Doe**.

Witness 1		Witness 2	
SIGNATURE		SIGNATURE	
Full name	Thomas Ways	Full name	David Buckingham
Address	27 Zoo Lane Eastbourne East Sussex BH21 4QH	Address	2 Portland Street Newark Nottinghamshire NG24 4XG
Phone	07723747223	Phone	07734774322
Occupation	HGV Driver	Occupation	Doctor

How do I validly execute my Will whilst self-isolating?

If you cannot leave your home and have concerns about how you can make a Will legally binding (it needs to be signed by two witnesses. Witnesses should not be related to you and not referred to, or in any way interested under the terms of the Will e.g. as executor or beneficiary or as husband or wife of an executor or beneficiary in the will.)

This can still be achieved if you are self-isolating.

If you can arrange for two independent witnesses, perhaps neighbours, who can physically see you and are both present at the same time, when you sign, then the formalities of proper execution will still be observed.

You can for example be a good distance apart as long as you and your witnesses can still physically see each other. If you have a garden then, weather dependent, that would be ideal.

One option could be for you and your chosen witnesses to sign on either side of a window or a glass door. Your signature could be clearly witnessed before being passed through the window or letter box for the witnesses to sign in the testator's presence and in the presence of each other.

The Will still has to be passed between you for signature and the virus can stay on paper for up to 12 hours, we are told, so gloves should be worn. You will need to consider how the will is passed between you – perhaps being placed on something that can easily be pushed across a floor/garden.

The usual advised guidelines for Coronavirus should still be observed ie wash your hands thoroughly before you start the will signing process, wear gloves if you have them, and wash your hands thoroughly after signing.

Although it is usual and preferable for the testator and the witnesses to use the same pen, it would be understandable if all parties preferred to have their own pen in the current circumstances, and it is unlikely that it would present any difficulties in the future with proving that the Will was validly executed.

Documenting the signature/witnessing process, whether that be with photographic evidence or a video recording are additional measures which should be taken to help ensure that there can be no question about the validity of the Will signing process.

Once signed do not attach anything to the Will and keep it in safe place.

Intestacy

“What happens if I don’t have a Will?”

If you die without a Will or your Will is invalid, then, by law, your estate would be distributed in accordance with the ‘rules of intestacy’.

Even if you have a valid Will, if it is poorly drafted or out of date, your estate may still be wholly or partially intestate.

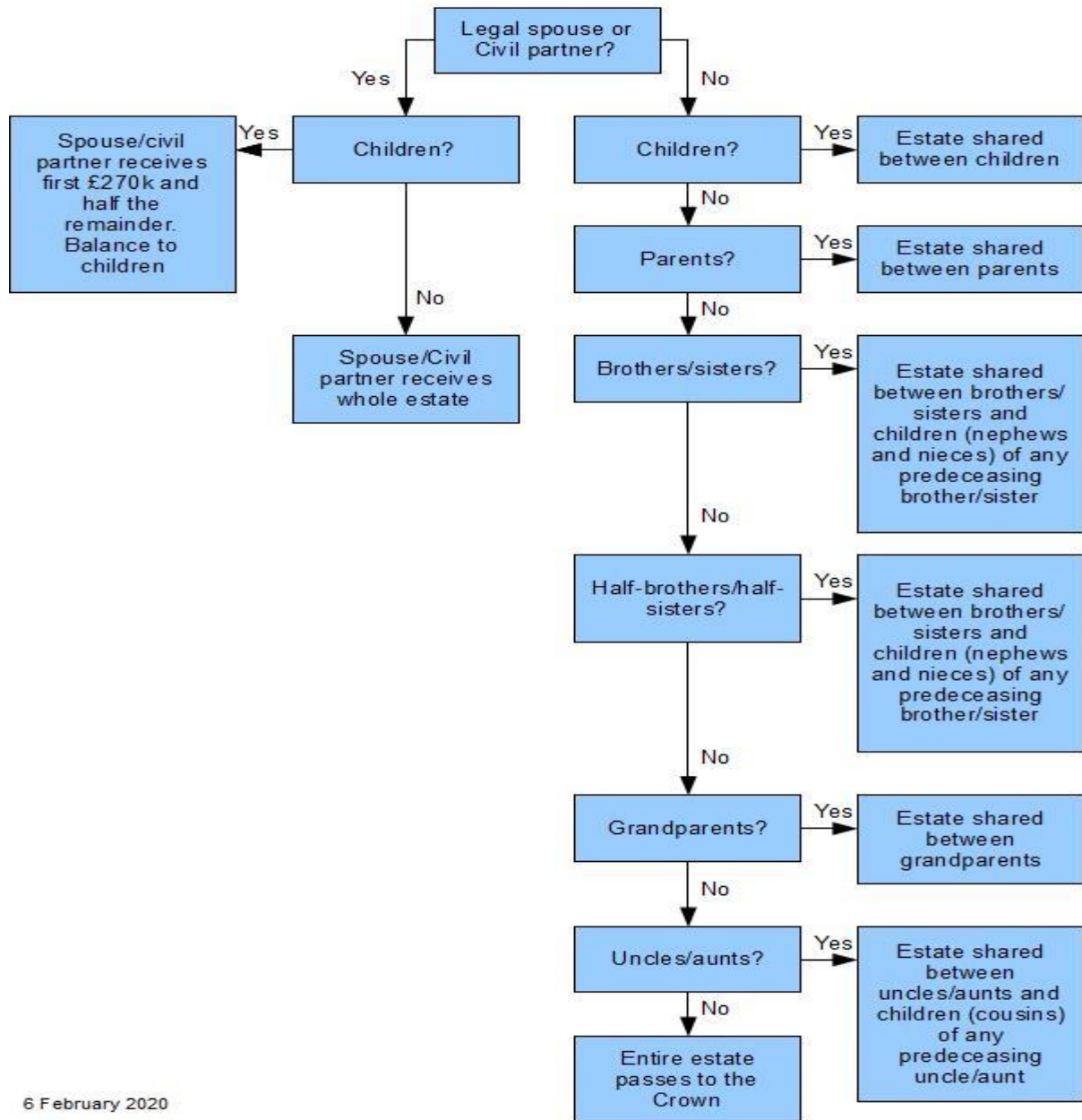
The diagram below explains how the rules of intestacy work in England and Wales.

You may be in for some surprises. For example, if you are married with children, then your spouse *does not* inherit everything automatically, he or she would only receive the first £270,000 and half of the remainder with the other half going to the children. In some circumstances this could mean that the marital home would have to be sold to pay the children’s inheritance. If you are not married or in a civil partnership, then your partner receives nothing and your estate could even go to some distant cousin you’ve never even met!

Writing a Will avoids these problems. Even if you have no close family, surely you’d prefer to leave your estate to a friend, relative or charity rather than letting the Crown take it all.

Intestacy Simplified

Who survived the deceased?



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New Approach Wills

Freephone 0800 702 2167.

info@newapproachwills.com