



The ELM Guide to Wills

What is a Last Will & Testament?

A Last Will and Testament, often referred to as a "Will", is a legally binding document that outlines the distribution of a person's assets upon their death. Besides asset distribution, it serves several other critical functions, such as naming Guardians for minor children, appointing Executors to handle the distribution of your estate, and providing instructions for funeral and burial arrangements.

Creating a legally valid Will is an essential step to guarantee that your final wishes are honoured.



Reasons to make a Will

- **Asset Distribution:** A Will allows you to specify how your assets should be distributed after your death. Without a Will, your assets may be distributed according to the Rules of Intestacy, which might not align with your wishes. By creating a Will, you maintain control over who inherits your estate.
- **Choosing Legal Guardians:** If you have minor children, a Will is crucial for appointing legal Guardians to care for your children in the event of your death. Without appointing Guardians, the court may have to decide who will care for your children, which might not align with your preferences.



- **Protection for Unmarried Partners:** A Will provides essential legal protection for unmarried partners, ensuring they are financially secure, as they are not automatically provided for.
- **Choosing Executors:** You can name Executors who are responsible for carrying out the instructions in your Will. This simplifies the process and ensures that someone you trust oversees your affairs.
- **Peace of Mind:** Knowing that you've made secure arrangements for the future can alleviate stress for both you and the loved ones you leave behind.
- **Protection for Pets:** You can use your Will to gift your beloved pets to someone you trust and even leave money to fund their care.
- **Charitable Donations:** When making your Will, you might want to leave a percentage of your estate, or a specific gift, to a charity of your choice. Many charities rely on charitable gifts left within Wills to continue their work.
- **Avoiding Family Disputes:** A clear and binding Will can help prevent family conflicts over the distribution of your assets. It provides a transparent and legally enforceable plan for your loved ones to follow, reducing the likelihood of legal battles.



“ We help you plan for tomorrow with complete peace of mind.

What happens if you don't have a valid Will?

If you pass away without a valid Will in place, your estate is distributed according to the Rules of Intestacy. Below are some of the important considerations and pitfalls of these rules:

- Intestacy rules do not provide for unmarried partners or cohabitants. If you are in a long-term relationship but not legally married or in a civil partnership, your partner may not inherit and may need to make a costly claim against the estate.
- Stepchildren, step-grandchildren and foster children have no legal right to inherit under the Intestacy rules.
- If you are still legally married or in a civil partnership but separated, your estranged spouse may be entitled to a significant portion of your estate under the Intestacy rules.
- If you wish to leave gifts to friends or individuals not within your close family, you must create a Will as they are not included under Intestacy rules and rarely have any right to make a claim.
- If you have no surviving relatives who are eligible to inherit, your entire estate may ultimately go to the Crown.

For a more in-depth view of the Rules of Intestacy, you can visit www.elm-online.co.uk/rules-of-intestacy-who-will-inherit-from-your-estate/



When do people make a Will?

It is a common misconception that people only make Wills in the later years of their life. Wills are evolving documents that should be updated to align with changes throughout your life. Here are some of the most common life events and milestones that may warrant making or updating a Will:

- **Marriage or Civil Partnership:** When you get married or enter into a civil partnership, any existing Will becomes invalid unless it was made in anticipation of marriage. It is important to create a new Will to reflect your new circumstances.
- **Birth or Adoption of Children:** Birth or adoption of children is a significant life event that often prompts individuals to create or update their Wills to name Guardians for their children and provide for their future.
- **Purchase of a Property:** Acquiring property, such as your first home, is one of the biggest investments we ever make. Creating a Will helps protect your investment and ensure it goes to the right people.
- **Death of a Beneficiary:** If a Beneficiary passes away, it's important to revise your Will to specify new Beneficiaries or redistribute assets.
- **Change in Financial Situation:** Significant changes in your financial circumstances, such as receiving an inheritance or winning the lottery, may require updates to reflect your new assets and possible tax implications.
- **Retirement:** As you approach or enter retirement age, you may want to ensure your Will reflects your current wishes.



Signing your Will

It is crucial you get your Will signed correctly and as soon as possible. If your Will has not been signed or witnessed, it is not valid.



Here are some top tips to make sure you get it right:

1. Ensure you have two independent witnesses present throughout the signing process.
2. Witnesses should be over the age of 18 and are signing to acknowledge that you have signed your Will freely.
3. Make sure you have read, fully understand and are happy with the contents of your Will.
4. When dating your signature, use the full written date instead of numbers to avoid possible confusion.
5. Never pin, staple, paper clip, or fasten anything to your Will that could leave a mark.
6. You and your witnesses should initial all pages to confirm you have read and understand them.
7. Make sure the witnesses include their address, just in case they are ever needed to reinforce your Will.
8. Follow all these tips in a quiet and private setting to minimise the possibility of distractions or mistakes.

IMPORTANT: Never let a Beneficiary, or spouse of a Beneficiary, witness your Will as they will automatically forfeit any inheritance.

Terminology

We've put together a quick cheat sheet to help you understand some of the wording that might appear in your Will.

- **Testator:** The person who created the Will.
- **Executor:** A person or business that has been named to carry out the instructions of a Will.
- **Beneficiary:** A person or organisation who will inherit under the terms of a Will.
- **Heir:** An individual who is entitled to inherit either through the terms of a Will or through the Rules of Intestacy.
- **Guardian:** Someone appointed in a Will to care for and raise any children in the event of the Testator's death.
- **Legacy:** A specific sum of money or item left within a Will.
- **Residuary Estate:** The residuary estate, often referred to as the "residue", is everything left in the estate that remains after any gifts, taxes or debts are removed. The residuary estate is then distributed to your Beneficiaries.
- **Intestate:** When a person dies without a valid Will, they have died "intestate". The Rules of Intestacy then dictate who will inherit the deceased's estate.
- **Probate:** The legal process through which a court validates a Will, oversees the distribution of assets, and resolves any disputes or claims against the estate. It is a form of fraud prevention, but not all assets go through Probate, for example, assets with joint ownership.
- **Class:** A group of individuals or Beneficiaries identified based on a particular characteristic or relationship specified in a Will, for example, a group of children, grandchildren, or siblings.

- **Bequest:** Sometimes used instead of the term Legacy. A specific sum of money or item left to a Beneficiary in the Will. For example, leaving a family heirloom to a specific family member would be a bequest.
- **Article of Wishes:** A document that is often included with a Will to outline personal preferences, guidance, or to gift smaller items. Although this document is not legally binding like the Will, it serves as a reference for your Executors. High-value items should always be included within your Will.
- **Letter of Non-Inheritance:** This may accompany your Will to explain why you are disinheriting someone. This letter does not become publically available like a Will does.
- **Attestation:** The formal process of signing a Will. Witnesses verify that the Testator has correctly signed without any undue influence. This step is essential to establish a Wills authenticity and compliance with legal standards.
- **Issue:** The legal term used to describe a person's direct lineal descendant, such as their children, grandchildren or great-grandchildren.
- **Age of Vesting:** The specific age at which a Beneficiary becomes legally entitled to receive their inheritance. Common ages are 18, 21, and 25.
- **Chattels:** Personal property or movable items that a person owns. Personal property can include a wide range of items, such as furniture, jewellery, vehicles, artwork, household goods, clothing and other assets that are not considered real estate or money.

Pricing (all prices include VAT as standard)

- Single Will £99
- Joint Wills £165

We are here to help

If you have any questions, would like additional guidance or need some support, we're here when you need us.

Call us at:

0117 952 0698

or visit our website:

elm-online.co.uk





Website: www.elm-online.co.uk

Phone: 0117 952 0698 | Email: info@elm-online.co.uk

ELM Legal Services Ltd, 1a Victoria Park, Bristol, BS16 2HJ

Company No: 03962395



Institute of
Professional
Willwriters

• MEMBER •



APPROVED CODE
TRADINGSTANDARDS.UK