

ASTUTE

WILLS & ESTATE PLANNING

Will Writing Guide

I have made this guide to provide free practical advice for anyone looking in to getting a Will. I've seen many "guides" online used by organisations as a means to filter you in to a sales pitch or capture your data for marketing purposes. This guide is free to download with no catch or any expectation for anything in return. It is for you to use so you can prepare for whoever you eventually choose to write your Will whether it's me, a solicitor or even if you're brave enough to try write one yourself.



Choosing Executors

What are executors?

Executors are the people who will be responsible for carrying out your wishes and for sorting out the estate. I have a separate guide, which explains in more detail the role of the executors but for now I will provide a brief summary.

They will have to gather all the assets of your estate, deal with all the paperwork and pay all the debts, taxes, funeral and administration costs out of money in the estate.

They will need to pay out the gifts and transfer any property to your beneficiaries.



Who to choose as executors

You don't have to appoint more than 1 executor but it is definitely a good idea to do so in case one of them dies, or just doesn't have the capacity to act when your time comes.

Most people like to appoint 2, but you can have as many as 4 executors to split the responsibility for facilitating the will once you've passed. Typically, most people appointed as executors are friends or relatives but you can also appoint professional executors, but this will mean fees will be charged.

It is important to choose executors with considerable care since their job involves a great deal of work and responsibility.

You should always approach anyone you are thinking of appointing as an executor to see if they will agree to take on the responsibility. If someone is appointed who is not willing to be an executor, they have a right to refuse.

Tip 1 for picking Executors

Pick with your head not your heart.

It's more important that you pick someone who will have the emotional capacity and a practical mind to take on this task. I've heard from clients all the time picking people just because they were worried about upsetting a less responsible person by not appointing them.

They have to be responsible enough to, address estate matters quickly, effectively communicate with beneficiaries and make hard decisions when necessary.



Tip 2 for picking Executors

Name at Least One Younger Executor

If you're young, it's not unreasonable to pick people your own age but as you get older and your circumstances change you are likely to rewrite your Will. At this point you should try to name at least one additional younger, healthy successor executor who is likely to outlive you.



Tip 3 for picking Executors

If in doubt get a Professional.

Dealing with the death of a loved one is hard enough but to grieve and deal with all this extra admin is a lot to take on. Sometimes it is better to just choose a professional and accept the fact it may cost the estate but is that cost more important than someone's mental health?

If you do know people who you sincerely believe can step up to the task, then absolutely choose them if not.

Appoint a professional. It could be a solicitor, an accountant, or a trust corporation to name a few.



Choosing Executors

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Valuing your Estate

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Think about to the important things you want included in your will like:

Property, savings, pensions, insurance policies, bank accounts, shares and any items of value you own. You don't have to gift every single small item you own. Anything you don't specifically name falls in to your "residue estate". This is a catch all term for anything left after all important gifts have been made and debts are settled. In your Will you can make a "gift of residue" to someone whether it be children, a charity or other family members.

Use this form to write down your assets and liabilities to help you get a clearer picture of what your estate looks like:

Valuing your Estate

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Assets:

Property:

Savings:

Life insurance:

Pensions:

Possessions:

Investments:

Total:

Liabilities:

Mortgages:

Loans:

Credit Cards:

Store Cards:

Other Debt:

Funeral Cost:

Total:

Assets - Liabilities = Estate Value Total

Choosing beneficiaries

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Who do you want to benefit from your will? Make a list of all the people you want to leave money or possessions to. These people are called beneficiaries. One thing a lot of people overlook is back up beneficiaries. A common scenario is how most people would likely name their children to be beneficiaries.

As sad as it is to think about there is the small possibility you might outlive them, so what would happen with their share? A lot of people would like the share to pass on to their beneficiary's own children, your grandchildren, if they have any.

If your beneficiary doesn't have children at the time of your death then you can stipulate that their share transfers to your surviving beneficiaries, if you don't have any other children then it's worth thinking about who else could receive the gift. It could be friends, nephews, nieces, siblings or maybe a charity.

Choosing beneficiaries

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Guardianship

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A guardian is a person that you appoint in your Will to look after your children if you die before they reach the age of 18. An appointed guardian is given parental responsibility in the event of your death and has the same rights and responsibilities as a parent when it comes to a child's welfare, and education.

If you do not appoint a guardian to look after your children and no other surviving parent with parental responsibility exists, then the court will decide who to appoint as guardian for your children. This may very well end up being someone you wouldn't have preferred.



Tip 1 for picking Guardians

Pick someone Kind, patient and empathetic

No one's patience is infinite all parents are aware that raising kids will try your patience. With your own children, it can be difficult enough, but with others, it can be even worse. Your children will require as much tolerance and understanding as they can muster, especially when you consider the trauma of losing parents. A patient person will probably use such qualities when interacting with your children.

Empathy and kindness go hand in hand. Your children will benefit from having a parent who can relate to them and be compassionate even in the worst of times. We occasionally make the error of putting all of our attention on someone's capacity to physically look after our kids while ignoring their moral character. Emotional well-being is just as significant as physical well-being.



Tip 2 for picking Guardians

Pick someone with similar beliefs and values

What are your fundamental beliefs and values? Is it crucial to you that a guardian agrees with those opinions? Although it can be challenging to find those who share all of our values, some will always be more significant than others. Make a list of the necessities vs the extras.

It takes experience to become a good parent, but every parent is also unique. Are you aware of the parenting philosophy of any potential guardians who are themselves parents? For those without children, you'll need to extrapolate that information from their interactions with your children and other kids. Whatever method you use to do the assessment, it might be helpful to understand parenting style and how it differs from yours.



Tip 3 for picking Guardians

Financial Stability

One of a good guardian's most crucial traits is financial stability. The additional responsibility of taking care of your children may be difficult for someone who already has financial difficulties.

How well will a guardian manage assets if they are given to them on your children's behalf? The best indicator is likely their own financial standing. If you don't have anyone financially stable in your eyes you should consider taking a life insurance policy to support your guardians in raising your children.



What if I later decide I picked the wrong person?

It is a hard decision to make but remember your selection is not final. You can always change your will if you name someone today and later change your mind. You will be able to make changes to your will as long as you are still alive and capable. You can easily revise your will if you name your sister-in-law as guardian and then learn that she is a functioning alcoholic.

It's fine my parents will just look after them.

Your elderly parents are not always the best option. Parents are frequently chosen as guardians, after all, they did a fairly excellent job of raising you. Choosing your parents may be a good idea right now, but you should really consider how old they will be when your child is in secondary school. They might not be prepared for the rigours of puberty by that point since they may be coping with their own health issues.

What if my guardians die?

Think about naming a backup. If you decide to choose your parents as guardians, think about designating a backup and let your parents know that they are free to step down if they are not up to the duty. The backup guardian can take over once your parents have left.

My partner and I can't agree. What should we do?

Over the years, I have overheard some tense discussions between spouses about who should be the guardian. You may have to make concessions. What if one side of the family takes on the role of guardian while the other side looks after the child's finances? The alternative is worse. The family courts decide and they might pick someone neither of you wanted.

Who would be the best people to choose?

A close family member who has children the same age as yours or attends the same school as your family, in particular, could act as your child's guardian and offer familiarity and stability. Knowing that your child could continue attending their current school and be with their classmates in the unlikely event that something happened to you would be reassuring.

If you were in an accident, who would be the first person to look after your child? Even if it's uncomfortable, consider who would look after your child if you were admitted to the hospital. Who would be the first visitor to your home, take care of them, read them a bedtime tale, and put them to sleep? That person might make a good guardian.

Guardianship

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Deliberate exclusions

Is there anyone in your life who might think they're entitled to a share of your estate? You can make it known that your decision to leave them out was not an oversight and was deliberate.

This may be because you're going through a divorce and haven't had the decree absolute granted yet, or you've become estranged from family members, or you might just have a dodgy uncle who is going to try his luck.

It's important to have their full name, relationship to you and it's advisable to include a reason why you're excluding them.



Other considerations

Funeral Wishes

If it's important to you, in your Will you can let it be known whether or not you wish to be buried or cremated, what songs you want, what kind of service you want, flowers, even down to the dress code.

Organ Donation

If you're not already on the organ donor list, you can specify in your Will how you want your organs to be used.

Provisions for pets

If you have any pets that need to be taken care of you can choose who looks after them.

Other considerations Use this box to make notes about what decisions you wish to make

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Complicated Estates

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Some people may have more complicated situations and in these instances you should get the proper advice. You might fall in to this category if you have a large inheritance to leave your children, if you have remarried and have children from different marriages or if you are leaving inheritance to a vulnerable family member to name a few. Here are some examples of some provisions you can put in your Will to prevent difficult situations arising after your death.



Children's Trust

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A Children's Trust deals with your intentions for their inheritance. Without a Trust they automatically receive everything when they turn 18. This isn't usually a good idea because not all 18-year-olds are ready to accept huge inheritances. You also can't predict what emotional impact losing their parents at a young age might have and who may come in to their lives to take advantage of this.

The Children's Trust enables you to stipulate an inheritance age up to 25, you then assign authority over the inheritance to your Trustees of choice. This means your children can still have access to the inheritance for sensible things, like a house deposit, university or anything you set out in advance to your trustees.



A Vulnerable Persons Trust is a vital addition to your Will if you are planning on leaving any proportion of your estate to a loved one who is disabled or has severe learning difficulties. The purpose of a Vulnerable Persons Trust is to appoint trustees to legally manage the provisions which have been left to the person.

Without this Trust it could result in state assisted care and any benefit being stopped as receiving the estate will often result in your loved ones exceeding the means testing threshold. The Trust works as a ring fence around the inheritance meaning the assets being left in the Will would not be subject to means testing therefore protecting any existing entitlements for your vulnerable loved one.



A protected Property Trust protects the home you own. Most properties are owned "jointly", which means that upon your death, the surviving partner owns the property in full. This carries a significant risk since that your children may never inherit the property. Risks include remarriage, debt, and care costs.

With a Protected Property Trust you each individually own half of the house. Then, instructions are included in your Will to direct your half into a discretionary trust to ring fence it from the aforementioned risks. Your spouse's right to remain in the home until death or sell the property is also protected.

In the event that a property is solely owned, the entire asset would be transferred to the trust for your beneficiaries, with the non-homeowner spouse receiving the right to occupy the property up to the time you chose.

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I hope you found this guide to be useful. Writing a Will is not a comfortable subject and just by reading this guide you've already taken the first steps to getting it done. If you are looking for a trusted Will Writer to get this done I hope you would consider Astute Wills & Estate Planning.

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