Wills

Do I need a Will?

It is very important that you make a will, even if you don't think that you have much money or many possessions.

If you die without making a will, known as '**dying intestate',** it can become complicated for the people that you leave behind to carry out your wishes. By making a will you can make sure your wishes are carried out such as your funeral arrangements and how you would like your money and possessions to be distributed.

Why should I make a Will?

If you die without making a will it can cause problems for the people you leave behind.

- There are rules that dictate how your money, property and possessions will be shared out amongst your relatives.This may not be done in the way that you wanted.
- Unmarried partners and same-sex couples who are not registered as civil partners can't inherit from each other unless there is a will. If you die without making a will, your partner may be left with serious financial problems.
- If there is no will, this could cause disagreements between family members when money and possessions are distributed.

Age UK and the **Money Advice Service** have more information on Making a Will.

Free will writing services

Carers Trust has partnered with **Farewill** to make a will in under 30 minutes. Farewill is the largest will writer in the UK and has won multiple awards for its service. Every will is checked by their specialist team, ensuring your wishes are clear. You can access the free will writing service through **Carers Trust**.

Please note that Farewill are a private company who charge for most of their services and are also not a law firm, meaning they are not regulated by the Solicitors Regulation Authority.

Free wills month takes place twice a year, in March and October, for anyone aged 55 and over. You can have your Will written or updated for free. Use their website to see what's available in your area. You will be matched with a charity and a solicitor. The charity covers the cost of your

will.

Will Aid takes place in November. For a voluntary donation to Will Aid, you can get a basic Will written by a solicitor. See their website to find solicitors in your area who. volunteer their time and waive their fee for writing a basic Will.

Making your own Will

You don't have to use a solicitor to make your will, but unless you are familiar with legal terms and requirements, it is easy to make a mistake. This could cause problems for your beneficiaries, or result in your wishes not being carried out. If you do decide to write your own will, you can purchase pre-printed forms from stationery shops.

It is a good idea to ask someone to check the will after you have written it. **Citizens Advice Newcastle (CAN)** may be able to help you with this.

Living Wills

A Living Will consists of both an Advance Decision whether to refuse treatment and an Advance Statement of your preferences and wishes. They can be made separately, or they can be linked together.

Advance statements express your wishes and preferences to help people make decisions in your best interests were you to lose mental capacity. It can include matters such as how and where you want to be cared for, your eating habits and concerns around your personal care. It is not a legal document and there is no formal document or layout to follow when making an advance statement.

An advanced decision allows you to say now what medical treatments you might want to refuse should you lose the ability to make decisions for yourself in the future. An Advance Decision is legally binding and, as long as it is validly made, the health care professionals treating you must follow your wishes.

My Living Will is a website that can help you prepare your advance statement and advanced decisions online.

Using a solicitor

The cost of making a Will through a solicitor varies according to its content and complexity. Wills usually cost £150 – £300 for individuals or £200 – £600 for couples. Wills usually cost more if they are complicated. You should ensure that you get confirmation of the cost before you agree to go ahead. You may already have a solicitor that you trust, but if not you could contact:

Solicitors for the Elderly is an independent, national organisation of lawyers, such as solicitors, barristers, and legal executives who provide specialist legal advice for older and vulnerable people, their families and carers. They have an online search facility so you can find legal advice in your area.

Some solicitors will make home visits, but these can incur significant extra costs to cover their time and travel.

Money Helper have more information on using a solicitor to write your will.

Probate

Probate is an official form that gives the executors of a Will the right to deal with the assets and property of the person who has died. You will need to apply for a probate form if you are dealing with bank accounts, insurance policies or property. If the person who had died did not leave a Will, you can apply for 'letters of administration', which serve the same purpose as probate.

For more information on applying for probate, visit **www.gov.uk.**

You may also like to read Age UK's factsheet **Dealing with an estate** for further information.

Inheritance Tax

Inheritance Tax (IHT) is a tax that may have to be paid on any estate valued at over £325,000 when a person dies. A person's estate is all of their assets and property, including houses, cars, investments, money and belongings. Inheritance Tax is currently charged at a rate of 40% on the amount over the £325,000 threshold.

Please visit the Information Now **Tax** article for more details.

Money Helper have a guide on Inheritance Tax.

Disputing a will

English law has always recognised the freedom of individuals to dispose of assets in their will as they would like to. However, sometimes there may be doubt about the validity of the will or a dispute, because a potential beneficiary believes he or she should have been included in the will.

If someone dies intestate (without making a will) then it could be that a person who should benefit from the deceased's estate is not automatically recognised as a beneficiary under the intestacy rules. The statutory legacy for a spouse or civil partner is £250,000 where the deceased has surviving children. If there are no children, the spouse or civil partner will receive up to £450,000.

GOV.UK have produced a helpful tool to help you work out who inherits if someone dies without a will.

Legally, if fair provision is not made under a will or on intestacy, certain people can claim against the estate of someone who has died. The Inheritance (Provision for Family and Dependants) Act 1975 enables a person to apply to become a beneficiary, or a greater beneficiary, of the estate of the deceased. The object of the Act is to allow the redistribution of the estate because either the will, or the intestacy rules, do not make reasonable financial provision for the applicant.

To qualify under the 1975 Act, the deceased must have been living in England and Wales at the time of death and:

- you must be either the husband, wife or civil partner of the deceased;
- you could be a former spouse or civil partner who has not remarried or entered into a civil partnership;
- you cohabited with the deceased in the two years prior to his or her death;
- you might be a child of the deceased;
- you might have been treated by the deceased as a child of the family; or
- you may be someone who immediately before the death of the deceased was being maintained either wholly or partly by him or her.

The claim must be brought within six months of the grant of probate or letters of administration which allows the estate to be distributed. The Court does have the power to extend this time limit in certain circumstances.

If you would like further information or explanation about this matter, as a first step you will need to contact a specialist Solicitor who will advise you on the merits of a possible claim.

Power of attorney

When you create your will, it is a good idea to think about giving someone you trust power of attorney, so they can manage your money or health care if you are unable to. This is a legal document.

Read more about how to create a **Power of Attorney** on InformationNOW.

Your online presence: Digital will

The Digital Legacy Association helps you to plan and leave clear instructions on what would would like to do with your online accounts and records in your name when you die. Your accounts may include: Email, social media, to online shopping, chat and gaming. Any accounts where your information is shared on the internet. They run training for and have free resources that you can download. If you use one of their templates it will be a statement of wishes and not a legally binding document.

Read more on InformationNOW about digital legacies

Where to get legal advice

Local support is available in Newcastle if you need legal advice. You can read more about **Where to get legal advice on InformationNOW.**

Other useful information

- **Making a will** – Age UK guide
- **Making a will** – Money Helper
- **LifeBook** – Age UK free resource. It can be easy to mislay important documents and information. Record your details from, who insures your car, to where you put the TV licence. The LifeBook can help you to be more organised and could be invaluable to a family member or a friend if they need to locate important information about you in an emergency. Follow the step-by-step instructions and fill in the sections with your details, contacts and locations of important documents. Complete it online or order one.

> The information on this website is for general guidance on your rights and responsibilities and is not legal advice. If you need more details on your rights, or legal advice about what action to take, please contact an adviser or solicitor.

Last updated: March 5, 2025

Useful Organisations

Citizens Advice Newcastle (CAN)

Email: citycab@newcastlecab.org.uk

Website: http://citizensadvice-newcastle.org.uk

Telephone: 0808 223 1133

Address: 4th Floor, City Library, NE1 8AX

Newcastle District Probate Registry

Email: newcastledprenquiries@Justice.gov.uk

Website: https://courttribunalfinder.service.gov.uk/courts/newcastle-district-probate-registry

Telephone: 0191 211 2170

Address: 1 Waterloo Square, NE1 4AL

Solicitors for the Elderly

Email: admin@sfe.legal

Website: www.sfe.legal

Telephone: 0844 567 6173

Address: Studio 209, MillStudio Business Centre, SG12 9PY

Money Helper

Email: pensions.enquiries@moneyhelper.org.uk

Website: https://www.moneyhelper.org.uk/en

Telephone: 0844 567 6173

Address: Holborn Centre, EC1N 2TD

GOV.UK

Website: www.gov.uk

Telephone: 0844 567 6173

My Living Will

Email: hello@mylivingwill.org.uk

Website: https://www.mylivingwill.org.uk/

Telephone: 0844 567 6173

Will Aid

Email: enquiries@willaid.org.uk

Website: https://www.willaid.org.uk

Telephone: 0300 0300 013

Address: The Print House , E8 3DL

Age UK England

Email: contact@ageuk.org.uk

Website: www.ageuk.org.uk

Telephone: 0800 678 1602

Address: Age UK, EC3N 2LB

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