

The plain English guide to wills

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Introduction

(Important note: This guide is only intended for England and Wales.)

For many years people have written to us saying they are worried because they cannot understand their **will**. Some send us a copy of their **will** and ask us to explain, in a straightforward way, what will happen to their **estate** when they die. Of course, the law covering inheritance is very complicated and solicitors try to make sure that every possible event is taken into account. This can make a **will** almost impossible to understand for the ordinary person, particularly when they are not familiar with legal terms.

Despite this, some people do manage to write their own **wills**. There are some very good guides available to steer them through the difficulties involved in writing a **will**. Some of the guides use a glossary to help the writer. The glossary gives a straightforward explanation of the legal language that sometimes cannot be avoided. We have prepared such a glossary containing the most common legal terms used in **wills** and when administering (dealing with) someone's **estate**.

Where a word or phrase in this guide appears in **bold**, you can check the main glossary for an explanation.

We believe that solicitors could help their clients by including a glossary at the start of each **will** they prepare. Even complex **wills** could be understood by the ordinary person

if glossaries were provided. Also it could save the solicitors time, and their clients money, if they have to spend less time explaining matters to their clients. It would be comforting to the people who are afraid to ask questions for fear of appearing stupid. We would welcome feedback from solicitors on our suggestions.

People sometimes wonder why it is necessary to make a **will**. They assume that their **estate** will just pass to their nearest and dearest but this is not necessarily so. If a person dies without making a **will** they are described as intestate. The law of **intestacy** applies and the **estate** has to be dealt with following this law. We have given an example of the way **intestacy** works. Please read it as it may encourage you to make your **will** if you have been putting it off.

We have prepared some examples of **wills** with glossaries. Each example has a glossary tailored for it. The examples are for **wills** where the writer is not leaving enough to be affected by **inheritance tax**. (You should check the current tax rules with the Inland Revenue.)

If you do decide to make your own **will**, we suggest that you still have it checked by a solicitor. The solicitor will make sure that it is valid and that it will do what you intend.

Glossary

The definitions in this glossary are intended as a general guide. They are not precise. We are trying to give the ordinary person a feel for the subject.

Ademption

This is a gift in a **will** which cannot be made because the item no longer exists.

Administrator

This is a person who has been appointed to manage the **estate** of someone who has died without leaving a **will**.

Ambulatory will

This is a **will** which can be changed because its maker is still alive.

Assent

This is a document used by **personal representatives** to transfer **property** to a **beneficiary**.

Asset	This is something owned such as a building, a vehicle or money in the bank.
Attest	This means to sign to witness a signature on a document.
Beneficiary	This is a person who benefits under a will .
Bequeath	This is to leave something in a will .
Bequest	This is something given in a will , other than land or real property .
Chattel	A chattel is any property except freehold land .
Chattels personal	These are tangible goods (goods which can be touched) such as furniture, clothes, watches and so on.
Chattels real	This is another name for leasehold land .
Codicil	This is an alteration to an existing will . The codicil must be signed by the testator and the signature must be witnessed by two people who do not benefit under the will .
Contingent legacy	This is a gift in a will which depends on a particular event happening.
Contingent will	This is a will which only becomes effective if a stated event happens.
Devise	To devise means to leave freehold property or land in a will .
Discretionary trust	This is a trust set up so that the trustees can decide who will benefit from the trust and how much they will get.
Estate	This is everything a person owns when they die.
Executor (male) and executrix (female)	This is someone appointed by a person's will to deal with the person's estate when they die, according to the wishes set out in the will .
Freehold	If someone owns land which is freehold no one else has any rights over the land .

Grant of probate

This is a certificate proving that the **executors** are entitled to deal with the **estate**. When a person dies the **executors** fill in various forms for the **Probate Registry**. The forms are sent to the registry together with the **will** and the death certificate. A registrar examines all the documents and, once satisfied with everything, arranges the issue of the **grant of probate**.

Guardian

A **guardian** looks after the interests of people who cannot look after their own affairs, such as children or people with mental health problems.

Inheritance tax

This is a tax the Government charges on people's **estates**.

Intestacy

This happens when someone dies without leaving a **will**. Their **estate** is divided up between their relatives following the rules set by law.

Joint tenant

If two or more people have identical shares in **land** they are **joint tenants**.

Land

This is the ground, the buildings built on it, the subsoil below the ground, **property** fixed to the ground, and the airspace above the ground necessary for its ordinary use.

Legacy

This is a gift left to someone in a **will**, but not including **land**.

Letters of administration

This is a document recording the court's permission for the **administrator** to deal with a dead person's **property** and pay the debts and **legacies**.

Personal property

This is all **property** except **land**.

Personal representative

This is a person who has been appointed to deal with a dead person's **estate**. If there is a **will**, the **executors** appointed will be the **personal representatives**. If there is no **will**, the courts will appoint someone called the **administrator**.

Probate

This is the certificate giving authority to deal with someone's **estate**. When someone has died and left a **will**, the **executors** of the **estate** apply to the court for this authority.

Probate Court

This is part of the Family Division of the High Court of Justice. It issues the certificate called **probate**.

Probate Registry

When someone has died the **Probate Registry** supplies the forms to obtain **probate**. The **executors** have to fill in the forms to apply to get the document (**probate**) from the **Probate Court** which confirms that the **executors** have been appointed and that the **will** is valid.

Property

This is everything a person owns.

Real property/realty

This is **land** and buildings, minerals in the **land** and rights over the **land**.

Residue

This is all that is left of an **estate** after all debts, taxes and **specific legacies** have been paid. It will be shared out according to the instructions in the **will**.

Revoke

To **revoke** something is to cancel it or withdraw it.

Specific gift or specific legacy

This is an item left in a **will** which can be identified and be given to the **beneficiary**.

Testator (male) or testatrix (female)

A **testator** is a person making a **will**.

Trust

This is an arrangement under which **property** is held by named people for someone else.

Trustee

This is a person who holds **property** and looks after it on behalf of someone else.

Will

This is the legal document people use to **bequeath** (leave as a gift) money and **property** when they die.

What happens if you die without leaving a valid will?

If you are unmarried

Your **estate** will be inherited according to these rules.

- If your parents are still alive they will each receive half of your **estate**. If only one of them is alive they will receive all the **estate**.
- If your parents are dead but you have brothers or sisters who are alive, they will have equal shares in your **estate**. (If a brother or sister died before you their share would be divided equally between their children.)
- If your parents are dead and you have no living brothers, sisters, nephews and nieces, but your grandparents are still alive, they will inherit equal shares in your **estate**.
- If your parents, grandparents and brothers, sisters, nephews and nieces are all dead but you have uncles or aunts who are still alive, they will inherit equal shares in your **estate**.
- If you have no living relatives as listed above, all your estate goes to the Crown.

If you are married with no children and your estate is worth up to £200,000

Your husband or wife, if they live for at least 28 days after your death, will inherit your entire **estate** and your personal belongings (clothes, jewellery and so on).

If you are married with no children and your estate is worth more than £200,000

Your husband or wife, if they live for at least 28 days after your death, will inherit your personal belongings and the first £200,000.

If your parents are still alive, they get half of the rest of the **estate** and your husband or wife gets the other half. If your parents are dead, but you have brothers or sisters, they will share equally in the other half (of the rest of the **estate**). If a brother or sister has

died before you their children inherit their share.

If you are married with children

Your husband or wife will receive the first £125,000 of your **estate** and your personal belongings. The rest of the **estate** is divided and:

- one half is divided equally between the children;
- one half is invested to give your husband or wife income until they die; and then
- the capital is divided equally between the children.

If you are unmarried and have no living parents, grandparents, children, grandchildren, brothers, sisters, nephews, nieces, aunts or uncles

Your **estate** will go to the Crown.

Examples of plain English wills

Here are some examples of **wills** which people with fairly straightforward affairs could use.

Example 1

A man called Paul John Brown is married to Angela Brown. The Browns have three children. Paul wishes to appoint **guardians** for any of the children who are under 18 when he and Angela have both died. He also wishes to appoint two people to be his **executors** and two people to act as **trustees** for the part of his **estate** he leaves in **trust**.

Paul wishes to give the following **specific gifts**.

- His gold Rolex watch to his brother Gerald.
- His car to his sister Susan.
- £1000 to the charity Rainbow Family Trust.

I am Paul John Brown of 23 Chester Road, Wilmslow, Cheshire. This is my last will and I revoke all previous wills and codicils.

In this will the following terms and expressions have the following meanings.

Beneficiary	This is a person who benefits under this will.
Codicil	This is an alteration I have made to this will after I first wrote it. The codicil must have been signed by me, and my signature must have been witnessed by two people who are not beneficiaries under this will.
Discretionary trust	This is a trust set up so that the trustees can decide who will benefit from the trust and how much they will get.
Estate	This is everything I own at the date of my death.
Executor (male) and executrix (female)	This is a person appointed by this will to deal with my estate, according to my wishes set out in this will.
Guardian	Guardians look after the interests of children or other people who are not capable of looking after their own affairs.
Inheritance tax	This is a tax the Government charges on people's estates.
Property	This is everything I own.
Residue	This is what is left of my estate after all my debts, taxes and the specific legacies have been paid. It will be shared out according to my instructions in this will.
Revoke	To revoke something is to cancel it or withdraw it.
Specific gifts or legacies	These are gifts in a will which are identified and are to be given to named people or organisations.

Trust	This is an arrangement under which property is held by named people for someone else.
Trustee	This is a person who holds property and looks after it on behalf of someone else.
Will	This is the legal document I have written to bequeath (leave as a gift) money and property when I die.

1. I appoint to be the executors of my will:
 - Paul Fox of 2 Cherry Tree Lane, Manchester; and
 - Susan Grundy of 5 Derby Road, Buxton, High Peak SK17.
2. I appoint as trustees of the part of my estate which I leave in trust:
 - Gerald Lawler of 29 Sandy Lane, Stockport; and
 - Patricia Brown of 8 Sunny Bank Drive, Hazel Grove.
3. If my wife has died before I die, I appoint as guardians of my children:
 - John Smith and Wendy Smith of 34 Copeland Avenue, Manchester.
4. I wish my body to be cremated.
5. I give my executors the right to pay my debts, taxes, professional costs of dealing with my will and estate and funeral expenses out of my estate.
6. I give the following specific gifts free of inheritance tax.
 - To my brother, Gerald, my gold Rolex watch.
 - To my sister, Susan, my car.
 - To the Charity Rainbow Trust, £1000.
7. I give £50,000 for my executors to put into a discretionary trust for my children.
8. I give the residue of my estate to my wife, Angela Brown, as long as she lives at least 28 days after my death, failing which I give the residue of my estate to a discretionary trust for my children.

Signed by Paul John Brown on

Signature:

in our presence and we are signing as witnesses in his presence.

Witness 1

Signature:

Address:

Occupation:

Witness 2

Signature:

Address:

Occupation:

Example 2

June Wilson is a widow with two young children. She has a small house and savings of £8000. She wishes to appoint **guardians** for her children. She also wishes to appoint two **executors** and two **trustees**.

I am June Wilson of 1 Sandy Lane, Middleton, Manchester. This is my last **will** and I revoke all previous **wills** and **codicils**.

In this **will** the following terms and expressions have the following meanings.

Beneficiary

This is a person who benefits under this will.

Codicil

This is an alteration I have made to this will after I first wrote it. The codicil must have been signed by me, and my signature must have been witnessed by two people who are not beneficiaries under this will.

Discretionary trust

This is a trust set up so that the trustees can decide who will benefit from the trust and how much they will get.

Estate

This is everything I own at the date of my death.

Executor (male) and executrix (female)	This is a person appointed by this will to deal with my estate, according to my wishes set out in this will.
Guardian	Guardians look after the interests of children or other people who are not capable of looking after their own affairs.
Inheritance tax	This is a tax the Government charges on people's estates.
Property	This is everything I own.
Revoke	To revoke something is to cancel it or withdraw it.
Specific gift	This is an item left in a will which can be identified and be given to the beneficiary.
Trust	This is an arrangement under which property is held by named people for someone else.
Trustee	This is a person who holds property and looks after it on behalf of someone else.
Will	This is the legal document I have written to bequeath (leave as a gift) money and property when I die.

1. I appoint to be the executors of my will:
 - Pamela Rhodes of 34 Mount Road, Longsight, Manchester; and
 - James Wild of 53 Lake Street, Bolton.
2. I appoint as trustees of the part of my estate which I leave in trust:
 - Stephen Wilson of 10 Hope Road, Middleton; and
 - Ruth Wilson of 8 Park Street, Failsworth.
3. I appoint as guardians of my children:
 - John Wilson and Rose Marie Wilson of Fairways, Oldham Road, Middleton.
4. I wish my body to be cremated.
5. I give my executors the right to pay my debts, taxes, professional costs of dealing with my will and estate and funeral expenses out of my estate.
6. I give the following specific gifts free of inheritance tax.
 - To my sister, Rose Marie, £2000.
 - To my mother, my car.
 - To my brother, George, my Kate Greenaway collection.

7. I give the rest of my estate to a discretionary trust for my children.

Signed by June Wilson on

Signature:

in our presence and we are signing as witnesses in her presence.

Witness 1

Signature:

Address:

Occupation:

Witness 2

Signature:

Address:

Occupation:

Example 3

John Smith is single and has no living relatives. He lives in a house he rents. He has tiny savings and some possessions which include a gold pocket watch, a saxophone and a grandfather clock.

John wants to leave:

- his gold pocket watch to his friend Paul Williams of 3 Manor Gardens, Cheadle;
- his saxophone to his friend Edith Watson; and
- his grandfather clock to his friend Elsie Tattersall.

He wants to leave the rest of his **estate** to St Mary's Roman Catholic Church.

I am John Smith of 55 London Road, Cheadle, Cheshire. This is my last will and I revoke all previous wills and codicils.

In this will the following terms and expressions have the following meanings.

Beneficiary	This is a person who benefits under this will.
Codicil	This is an alteration I have made to this will after I first wrote it. The codicil must have been signed by me, and my signature must have been witnessed by two people who are not beneficiaries under this will.
Estate	This is everything I own at the date of my death.
Executor (male) and executrix (female)	This is a person appointed by this will to deal with my estate, according to my wishes set out in this will.
Property	This is everything I own.
Revoke	To revoke something is to cancel it or withdraw it.
Specific gift or specific legacy	This is an item left in a will which can be identified and be given to the beneficiary.
Will	This is the legal document I have written to bequeath (leave as a gift) money and property when I die.

1. I appoint to be the executors of my will:
 - o Paul Williams of 3 Manor Gardens, Cheadle; and
 - o Elsie Tattersall of 18 Hunt Street, Cheadle.
2. I wish my body to be buried at St Mary's Roman Catholic Church, Cheadle.
3. I give my executors the right to pay my debts, taxes, professional costs of dealing with my will and estate and funeral expenses out of my estate.
4. I give the following specific gifts.
 - o To my friend Paul Williams of 3 Manor Gardens, Cheadle, my Sekonda gold pocket watch.

- To my friend Edith Watson, my Boosey and Hawkes saxophone.
 - To my friend Elsie Tattersall, my grandfather clock.
5. I give the rest of my estate to St Mary's Roman Catholic Church, Cheadle.

Signed by John Smith on

Signature:

in our presence and we are signing as witnesses in his presence.

Witness 1

Signature:

Address:

Occupation:

Witness 2

Signature:

Address:

Occupation:

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