

The Will Guys



A Guide to Making a Will

Town Hall Chambers, High Street East, Wallsend, Tyne and Wear, NE28 7AT
www.thewillguys.co.uk

Getting Ready for your Will Appointment

This guide will help you work out the basics, so when we sit down to write your Will you have already given it some thought.

Before we write your Will, you need to decide who you would like to inherit and what you would like them to have. You should set down the basics of your plan for your money and possessions. Don't worry, it's easier than it sounds – just follow this step-by-step process.

Below is a list of the information you will need to have to hand when we meet for your Will appointment.

If you could get as much of this together in advance of our meeting, this will shorten our appointment considerably and enable me to give detailed advice at our first meeting.

Names and Addresses of people in the Will

- Your full name, date of birth, date of marriage (if applicable) and address including post code
- Your partner's full name and date of birth
- The full names, dates of birth and addresses including post code of all children

Appointment of Executors

Executors are persons whom you appoint in your Will to carry out your wishes and administer your Estate. You may consider appointing your spouse/partner with additional or substitute Executors.

This is a responsible position with some duties imposed by law and therefore you might consider appointing a professional Executor.

An Executor can be a beneficiary under your Will.

Please have your Executor's full names and address including post code or if you are unsure who to appoint we can discuss this further during your appointment.

You will find further information regarding appointing Executors later in this guide.

Summary of your Assets/Liabilities



Your Home

- What is the approximate value?
- Name of mortgage lender (if applicable)
- Approximate amount outstanding on mortgage
- How many years are left on your mortgage?



Other properties or land

- Holiday homes both in the UK and abroad
- Buy to let properties
- Land or even a parking space you may own



Savings

- List of saving accounts with amounts



Life Assurance Policies and Trust

- Name of insurance company
- Single or joint policy
- Sum assured
- Monthly premium
- Start and end date



List of Debts

- Approximate amount owed
- Monthly repayment
- How long until it is repaid
- Name of creditor



Funeral Wishes

Is it your wish to be buried, cremated or no preference.

Appointment of Guardians

If you have any children under the age of 18, you should consider appointing at least one guardian.

When one parent dies the surviving parent normally becomes the Legal Guardian, but it is of course possible that both parents could die together or you may be a single parent.

Where a man is not married to the mother of his children, he will not automatically become their guardian on the death of their mother.

You will find further information regarding appointing Guardians later in this guide.

Legacies



There are broadly five types of legacy you can leave:

- “I leave £2,000 to my son ” – this means you leave a fixed sum of money.
- “I leave my jewellery to my daughter ” – this is called a ‘specific bequest’. It means you leave a specific item which you own. The way to identify it will be to see what meets that description at the date of death. If there is no jewellery at that time, then the gift will fail.
- “I leave half my estate to my brother ” – this is a ‘residuary bequest’. It means you leave a percentage of whatever your estate is worth after any debts, costs, liabilities, legacies and tax have been paid.

- “I leave my share of my house to my wife if she survives me, but if she does not survive me then it will pass to my daughter ” – this is a ‘reversionary bequest’ for your daughter. You can specify what happens if the person you leave it to dies.
- “I leave my share of my house to my wife for the rest of her life, and then it will pass to my daughter ” – this creates a ‘trust’ over your share of the house. A trust allows you to say who you

would like to benefit from your property immediately after your death (e.g. your wife), and then who you would like to benefit from your property (e.g. your daughter) once the first person you have chosen to benefit immediately after your death has died.

Please have to hand the recipient’s full name and address. In the case of a charity the Charity Number will be required.



Will you pay Inheritance Tax

The Inheritance Tax threshold is currently £325,000 for an individual, or up to £650,000 for a married couple or a couple in a civil partnership. If your estate is worth more than this, when you die and it passes to a non-exempt beneficiary, such as a child, or doesn’t qualify for relief as an agricultural or business asset, then Inheritance Tax (currently 40%), will have to be paid on the excess.

The Inheritance Tax threshold can be reduced or eliminated by certain gifts made in the seven years before death. A new tax-free allowance of £125,000 (rising to £175,000 by 2020/21) provides each individual with an additional allowance to be used against their home, provided they leave it to their children or grandchildren and their estate doesn’t exceed £2.35 million. The allowance can be transferred to a spouse or civil partner if it isn’t used up on the first death.

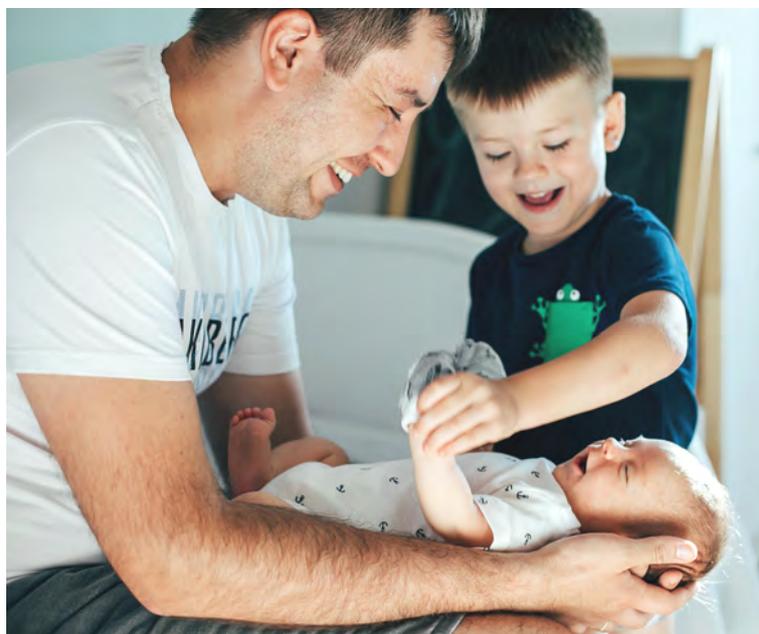
This means when added to the existing £325,000 individual allowance, a couple will be able to leave £1 million without paying inheritance tax by 2020.

The rules aren’t straightforward. If you think you’re near the limit you need to get more information on how to legally avoid it or minimise the amount – which could save thousands of pounds.

Think about protecting your beneficiaries

Sometimes you might want to set some safeguards on your bequest – for example, if you’re leaving something to a child or someone with disabilities or mental health issues.

Many people handle these issues by setting up trusts; this means that what you leave can be managed by people you trust to act in the best interests of your beneficiary.





There are circumstances under which the Guardian will be called upon when both parents are not deceased in cases where:

A surviving parent is unable to perform their role because they are overseas, in the army, in prison, disabled or mentally incapacitated, or after the death of the first parent, or they just refuse responsibility.

A couple are separated or divorced and just one of the parents dies. The Guardian will act with the surviving parent and should disputes arise, they will have to be settled by the Court. The surviving parent is still considered the Statutory Guardian.

Financial considerations

It is normal for the financial management to be separated from the day to day upbringing of children. Whilst the Guardians have the daily responsibility, it is better for the financial control to be handled by someone different, normally the Trustees of your estate. The two tasks demand different skills that may not always be found in the same person. It also means that the Trustees, the Guardians and, when they are old enough, your children, can share what can be difficult decisions.

In your Will, where your children are underage and are to benefit from your estate, you should nominate

them as the Beneficiaries. In no circumstances should you nominate the Guardians – as mentioned above, the money will be held in trust, and will be controlled by the Trustees for the benefit of the children.

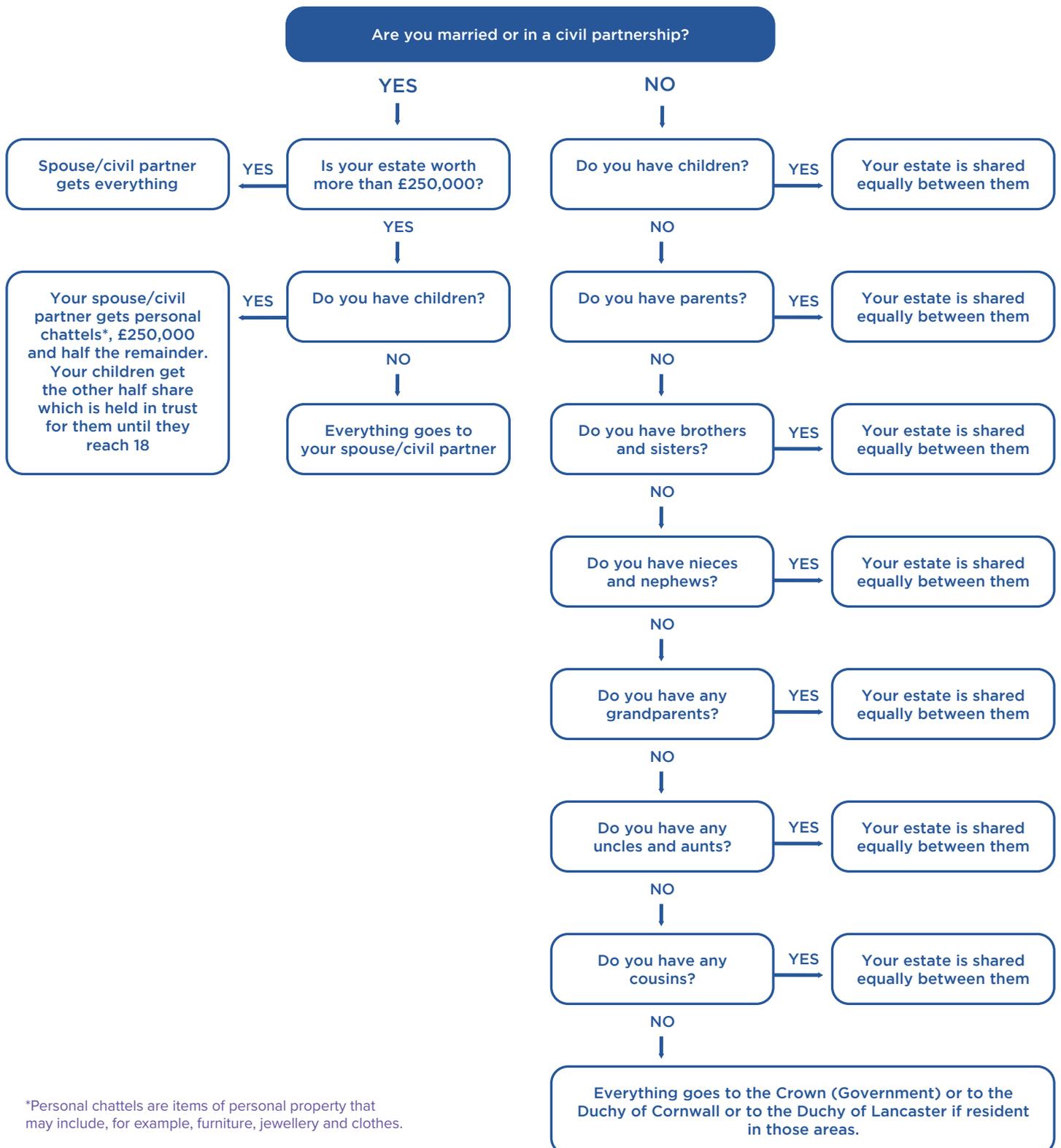
The appointment of Testamentary Guardians for children allows you to decide who should be responsible for your children's welfare, maintenance and education, and how these should be funded if both your deaths occur while any child is under 18 years of age.

There is no legal reason why you cannot appoint the same people as Executors, Trustees and Guardians if you wish, but you should be aware that there is a potential conflict of interest in that the Trustees are responsible for advancing sums of money held in trust to the Guardians to help with the Guardianship duties. However, if you have absolute trust in the people appointed, then do not allow this to concern you.

Do consider factors such as the age of your Guardian, where they live in relation to you (would children have to move school? etc), how close the relationship is between your Guardians and children now, and if your Guardians know and share your views on how your children should be raised and educated etc.

The Rules of Intestacy – England and Wales

Use this flowchart to work out who benefits from your estate if you die without a valid Will.
You may be surprised by some of the outcomes!



*Personal chattels are items of personal property that may include, for example, furniture, jewellery and clothes.

Important notes on signing your Will

A Will becomes legally valid and binding as soon as it is signed by the Testator/Testatrix and observed by two Witnesses together, who will sign to confirm this fact.

It is important that you **SIGN AND DATE** your Will in front of two Witnesses as soon as possible, **BUT PLEASE READ THE REST OF THIS PAGE FIRST.**

- The signing of your Will involves **THREE** people, you and **TWO** Witnesses.
- All **THREE** must be present throughout the process.
- The **WITNESSES** must be over **18** years old.
- The **WITNESSES** should **NOT** be Beneficiaries, spouses of Beneficiaries or members of your own family (even if the Beneficiary has been named as second or third reserve to inherit any part of the estate, making the mistake of signing as a Witness means that they will lose their inheritance).
- Make sure that the Witnesses are as **independent** as possible. Ideal Witnesses could be neighbours.
- Ask your two **WITNESSES** to add their “usual” signatures, where appropriate.
- They should also print their **names, addresses** and **occupation** clearly for identification purposes.

Don't delay – Sign your Will today!



An example of how to sign your Will

The Testimonium and Attestation

SIGNED by JOHN SMITH

On the 21st day of March 2018

Signature of Testator/Testatrix:.....

(John Smith to sign here)

JOHN SMITH

SIGNED first by the Testator/Testatrix in our joint presence and then by each of us in the presence of the Testator/Testatrix and each other.

Witness 1

Signature:.....

(Independent Witness No. 1 to sign)

Full name:.....

(Independent Witness No. 1 to print full name)

Address:.....

.....

.....

(Full address of Independent Witness No. 1)

Occupation:.....

(Occupation of Independent Witness No. 1)

Witness 2

Signature:.....

(Independent Witness No. 2 to sign)

Full name:.....

(Independent Witness No. 2 to print full name)

Address:.....

.....

.....

(Full address of Independent Witness No. 2)

Occupation:.....

(Occupation of Independent Witness No. 2)

Why Should I Store My Will in a Secure Storage Facility?

- ✓ The Will cannot be lost.
- ✓ In placing the Will into storage, the documents will be checked to ensure they are signed correctly.
- ✓ Only your Executors will be allowed to withdraw the Will from storage after your death.
- ✓ A disappointed Beneficiary cannot destroy the Will as they will not have access to it as they may at home.
- ✓ All documents are scanned, and the electronic copies will be used in an application to Probate if required.
- ✓ Your Executors will be aware of what documents are in storage and how they can retrieve these after your death.



Your Will is the most important document you will ever make and what you do with it once you have signed it needs careful consideration.

By choosing to store your Will (and other legal documents) in our Secure Storage Facility you will guarantee the following:

Your Will can be found when the time comes

Did you know that if your Will cannot be found after you have passed away that the law presumes you must have destroyed it and did not wish it's content to be taken account of? This could have devastating consequences for your chosen Beneficiaries.

If your Will cannot be found after your death either any previous Will found will be used or the Government will draft a Will for you and your Estate will be divided according to the Laws of Intestacy.

You will be treated as if you never made a Will if at the time you die the original cannot be found and may mean that your loved ones do not receive your Estate as you had intended.

Countless Wills are damaged, lost or accidentally destroyed every year causing untold issues for those left behind when trying to obtain Probate and administer the Estate.

Only your nominated Executors are able to access your Will when the time comes

We have all heard the horror stories of what could happen when a Will falls into the wrong hands and so you need to be able to guarantee that your Will remains safe until this event and that only your chosen Executors know exactly where your Will is located.



Using The Will Guy's Storage Service ensures that your Will is kept safe and can be released to your Executors at the time of your death. This also means that the content of the document is kept private until death occurs.

Your Will is both legally valid and has been executed (signed & witnessed) correctly

When you elect to store your Will with The Will Guy's we will automatically check that your Will has been drafted and executed correctly and complies with the Will Act 1837, before it is placed into safe storage. If your Will has not been signed correctly it is better to put this right before death, when it will be too late.

Secure Storage of your Will is just as important as making your Will. Choosing to use our Secure Storage Facility will ensure that your Estate is distributed as intended after your death.

Where will my documents be stored?

All our client's documents are stored in a secure fireproof cabinet in a locked facility. As an added precaution, all signed documents to be stored are scanned in advance and those scanned copies are stored in our Electronic Filing System held on our secure server.

What will I receive from The Will Guys after electing to store my documents with you?

The Will Guys will provide you with confirmation of the documents held in storage, which you should then pass onto your nominated Executors for safe keeping.

Confirmation will contain the following:

- Full details of all the documents being stored with The Will Guys
- Full contact details confirming where the documents are stored and how to retrieve the documents when required
- One free amendment to your Will per year

How do I pay for storage?

Storage is paid for by direct debit mandate and is taken on the same day each year.

What happens if I want my documents out of storage?

Should you require your documents out of storage for any reason at a later date, then you will need to make this request to us in writing stating your full name, date of birth, address and reference number and where documents are required for more than one party, we require BOTH client signatures. In order to us to return your documents to you, your storage payments will need to be up to date. Once this has been confirmed your documents will be retrieved from storage and posted out to you. Your signature will be required on delivery.

The
Will Guys