

ESTATE PLANNING MADE EASY

*Kat's Wills and
Estate Planning*

Writing a Will

WHY DO I NEED A WILL?

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What is a will?



A will is a legal document that you make to set out your wishes and ensure that your estate is distributed the way you want it to be after you have passed away. It allows you to ensure your loved ones are looked after when you are no longer here to help them.

A will allows you to set out all of your wishes about who you want to divide your estate up on your behalf and how you would like it to be divided. You can choose who will look after any funds that may be held on trust for any of the people benefiting from your estate in circumstances where trusts are required.

For Example if you have any beneficiaries who are disabled and may need the money to be held on trust for them if they are unable to manage their own finances or if you have any beneficiaries who are minors. You can also choose who you want to act as a guardian and look after any minor children you have if they are still minors when you pass away.

A will also gives you peace of mind that your loved ones will benefit in anyway you feel they should when you are no longer here. It should help reduce the risk of family fallouts that can take place if your loved ones cannot agree how to divide your estate because you have already made the decisions for them.



Types of Wills



There are many different wills that can be written but the majority will fall into two categories. They are standard wills or trust wills, and both type of wills can be offered as an individual will or a mirrored will.

- ❖ **A Standard Will** is a straightforward will that does not include any type of trust being set up for any of the beneficiaries apart from if any of the beneficiaries are minors when the person who the will belongs to dies.

- ❖ **A Trust Will** is a will that has a specific trust included in it. There are various types of trusts but I will look at the main ones that will often be set up in a will.
 - **A Discretionary Trust** is a trust that can be set up which will leave part or the whole of the estate to be held on trust for a single or multiple beneficiaries. There are advantages and disadvantages to setting up a discretionary trust which I can discuss with you in full detail.
 - **A Vulnerable Persons Trust** can be set up when at least one of the beneficiaries is classed as a vulnerable person. This type of trust can be beneficial to help reduce inheritance tax, but the estate has to be used largely to benefit the vulnerable person. Any other beneficiaries are only allowed to receive small sums each year. Just like discretionary trusts there are advantages and disadvantages which I will discuss in full detail with you if this trust may be applicable.
 - **A Life Interest Trust** is usually used if you are an owner of a property either solely or with another person and you wish to leave your share of the property to a beneficiary or group of beneficiaries but want a person to have the right to reside in the property for their lifetime. It can be used in other circumstances too but this is the main situation. I would discuss any other situations with you if deemed necessary in your circumstances.

- ❖ **An individual will**, will usually be used when a single person writes a will expressing their own individual wishes, but it may also be used for couples when they have significantly different wishes about how the estate is divided when they die.

- ❖ **Mirrored wills** will usually be used when a couple want to write a will and their wishes for how the estate is divided are mirrored or very similar. For example, if a couple decide that their estate should initially be passed onto the surviving member of the couple then in the event the second person dies they both want it to pass onto the same people such as children or grandchildren etc.

Why do i need a will?



This is a question many people often ask mainly because they feel they do not have enough assets or have heard stories of wills being contested. Either way they do not believe there is a point in making a will. However, the key reason to make a will is because it gives you the best chance to distribute the estate as you choose.

Without a will in place before you die you will be classed as dying intestate. This means you have no control over how your estate is divided. Nor do you choose who does or does not benefit from your estate. If for example you wanted to gift a piece of jewellery or an ornament to a friend or certain family members you would not be able to if you die intestate.

Without a will you would not be able to name the executor who deals with your estate, who will be trustees and look after any part of the estate gifted to minors or vulnerable people or choose a guardian who will look after any children who may still be minors at the time of your death. This is because your estate would be divided according to the rules of intestacy rules which are set out in law by the government. However, if there is no one to inherit through the intestacy rules then your estate will be transferred to the crown.

Intestacy Rules



I often hear people say that they don't need a will because everything will just go to their family. Which is largely true but does not ensure the estate is divided how you would want it to be. There are strict rules that need to be followed if you die intestate.

Intestacy rules state that if you are married or in a civil partnership and your estate is less than £322 000 then your spouse or civil partner will receive the whole estate. If your estate is worth more than £322 000 then your spouse or civil partner all of your personal possessions, the first £322,000 and 50% of any excess over and above the £322 000. The remaining 50% excess would be divided equally between any children you have. If you do not have any children the whole estate would be inherited by your spouse or civil partner.

If you are not married or in a civil partnership then your estate will be divided in equal shares between family members ranked in the following categories:

- ❖ **Your Children** including illegitimate and adopted children but **does not** include step-children
 - Their descendants if your children have passed before you
- ❖ Your Parents
- ❖ Your Siblings
 - Their descendants if your siblings have passed before you.
- ❖ Your Grandparents
- ❖ Your Aunts and Uncles

If any relatives are found in one of the categories then the whole estate will be divided among the members of that category whether there is 1 member or 100 members. Once a member is found in one category then no one from any of the lower categories will receive any inheritance.

If no relatives are found in any of the categories then the whole estate will pass to the crown.

Will v Intestacy Rules

Personally I know I would prefer to make a decision about how my estate is divided when I pass away. For example if I wanted a friend or a family member to receive a keepsake I can state this in my will and know that it will go to that person but with intestacy rules this would not be the case unless the person who was entitled to inherit was willing to allow people to have keepsakes.

Furthermore as I am not married my partner would not be entitled to inherit anything under intestacy rules and it would go to my children in equal shares. As one of my children is a vulnerable person then I would aim to leave the share for this child in a trust but intestacy rules would not allow for this. Even if I was married then my husband would receive the whole estate as it is below the £320 000 value and I would need to rely on him to ensure the children got a reasonable share of the estate.

In the modern world intestacy rules seem very dated and do not cater to the modern day family model. Such as automatically excluding an unmarried partner and also automatically excluding step-children.

In conclusion it is much more appropriate to have a will in place instead of relying on intestacy rules. A valid will gives you much more control over who inherits and what they inherit but also allows to you make any arrangements necessary for any minor children and arrange trusts for any minors or vulnerable people.