

# The Ultimate Guide to Wills & Probate

**And all of the other questions you wanted to ask**



**GRAHAM & ROSEN**  
SOLICITORS



It isn't a pleasant thought, but death is a part of life, and it's important to have plans in place for when you die. Having a will is the best way to ensure that your friends, family and favourite charities benefit exactly as you want them to after you're gone.

Wills and probate can seem complex, and it can be a bit daunting if you don't know where to begin. Learn everything you need to know with this expert guide.



# Making a Will

1. How to go about creating a will
2. Can I write my own will?
3. How much does it cost to create a will?
4. Can I make a will online?
5. What happens if you die without a will?



# Making a Will

## 1 How to go about creating a will

When it comes to writing a will, you've got a few options. You can try to write it yourself (see 2), you can do it online (see 4), or you can have it written professionally by a solicitor. Whichever way you choose to go, you'll need to have it formally witnessed and signed to make it legally valid.

## 2 Can I write my own will?

Yes, you can, but we wouldn't recommend it. In theory, you could write out your wishes on a scrap of paper, and as long as they were witnessed and signed, the document could be a valid will – but this is unlikely to be the most sensible option.

The biggest risk with writing your own will is that your wishes aren't followed in the event of your death. Using the wrong wording or missing out some key clauses in the will could render it invalid, or mean that your beneficiaries end up challenging the contents. Having your will written professionally by an experienced solicitor will help to ensure that all your wishes are clearly set out, minimising confusion and reducing the chance of family conflict or challenges.

## 3 How much does it cost to create a will?

The cost of having your will prepared by a solicitor will vary, but generally, professional fees start at around a couple of hundred pounds for a single will. Many solicitors may also offer discounts for couples. You may find that DIY Will kits are cheaper, but what you won't get with them is the advice and experience a solicitor can provide.

## 4 Can I make a will online?


Yes, you can. At Graham & Rosen, we offer an [online will writing service](#) that's ideal as a stopgap measure, or for those who want to quickly create a simple will, in a cost-effective manner. However, for those with more complex estates, detailed instructions or significant assets – we'd recommend having your will prepared professionally by an experienced solicitor.





# Executors of your will

1. What is an executor of a will?
2. Who should the executors of a will be?
3. How many executors should be appointed to a will?
4. Should I have professional executors?
5. Can an executor be a beneficiary?



# Executors of your will

## 1 What is an executor of a will?

An executor is the person with legal responsibility for carrying out the instructions in a will. They are also responsible for taking care of the financial side of things, like paying unpaid bills and taxes.

## 2 Who should the executors of a will be?

Anyone over the age of 18 can be an executor. It is important when choosing an executor to choose people you trust – they are going to be responsible for following your instructions, and finding solutions if there are disagreements. Usually, executors tend to be family members, close friends or solicitors. Picking someone who is good with figures and administration will help to ensure that things run smoothly.

## 3 How many executors should be appointed to a will?

It's a good idea to name more than one executor in a will. That way, if one of them dies before you, or is away from the area when you die, then the other will be able to manage things. Having a team of executors will also enable them to divide up the work and support each other during the probate and estate administration process.

You may also want to go with a professional solicitor as one of your executors, so you can benefit from their specialist experience and knowledge.

## 4 Should I have professional executors?

Appointing a solicitor as your executor comes with several advantages. Firstly, you'll benefit from their extensive knowledge and experience in administering an estate. Solicitors can also act dispassionately – they aren't emotionally attached to the deceased in the same way as other executors, which can be invaluable in the case of disputes.

## 5 Can an executor be a beneficiary?

Yes, absolutely. There are no rules against beneficiaries being named as executors. However, it's important to remember that a beneficiary cannot witness a will.



# Marriage/ Relationships & Death of Beneficiaries in Your Will

1. What happens if somebody named in my will dies?
2. Do I need a new will if I get married?
3. Do married couples need 2 separate wills?
4. Do I need to make a will if I am not married and want to leave everything to my partner?
5. Can I disinherit my spouse?





# Marriage/Relationships & Death of Beneficiaries in Your Will

## 1 What happens if somebody named in my will dies?

This depends on a few factors, including the kind of benefit, the relationship of the beneficiary to the deceased, and how the will is worded. Gifts usually go back to the estate. When writing a will, it is possible to write substitute clauses that account for your beneficiaries dying. A solicitor will be able to advise you about the best ways to introduce substitute clauses into your will.

## 2 Do I need a new will if I get married?

Yes! As soon as you get married, your existing will is null and void, and you'll need to write another. However, you can revisit your will once you have firm plans to marry (i.e. a wedding date), and insert a clause into your existing will to say that your wishes won't change after marriage.

## 3 Do married couples need 2 separate wills?

Yes. Whilst you can have your will arranged at the same time as your spouse (and there are often cost benefits for doing so), both you and your spouse will need separate wills.

## 4 Do I need to make a will if I am not married and want to leave everything to my partner?

Absolutely! Unless you set out your wishes in a valid will, then your partner won't be entitled to a single penny (unless the assets are owned jointly), no matter how long you've been together or lived together for.

## 5 Can I disinherit my spouse?

Yes, in theory. You are not bound to leave them anything in your will – but it's worth remembering that your spouse and children may be able to challenge your will in the event of your death, under the rules set out in the Inheritance (Provision for Family and Dependents) Act 1975. Your solicitor will be able to advise you on the rules, and how you can structure your will to best represent your wishes.





# Inheritance

1. What is estate planning?
2. How do I best leave my inheritance for my family?
3. How do I best structure assets to protect against the cost to the family of long term care?



# Inheritance

## 1 What is estate planning?

Estate planning is the process of creating and implementing plans for the disposal of a person's assets when they die. Usually, the goal of estate planning is to maximise the value of the estate passed down, whilst minimising the inheritance tax obligations. This might include using trusts to maximise family wealth and provide for future generations.

## 2 How do I best leave my inheritance for my family?

Every estate is different, and the best way to leave inheritance for your family members will depend on several different factors. The best way forward is to speak with a specialist solicitor about what you're trying to achieve. They will then be able to provide you with tailored advice, and to support you with the right estate planning services.

## 3 How do I best structure assets to protect against the cost to the family of long term care?

This will depend on a few factors, including:

- The value of your estate
- The kind of assets you have
- The structure/ownership of your assets

Often, there will be steps you can take to reduce your tax obligations and protect your family wealth from the cost of long-term care (e.g. trusts). An experienced estate-planning solicitor will be able to provide you with the right advice.



# Probate

- 1 What is a Grant of Representation?
- 2 Why is it needed?
- 3 How does it work?
- 4 How do I apply for a grant of representation?
- 5 When is a grant of representation needed?
- 6 How much does it cost?
- 7 Can you contest a will after probate?



# Probate

## 1 What is a Grant of Representation?

A Grant of Representation is a legal document that gives the executor (see section 2) of an estate the power to deal with the assets of the deceased.

If there is a valid will in place, then the executor will need a Grant of Probate. If the deceased died intestate (without a will in place), then the executor will need a Grant of Letters of Administration.

## 2 Why is it needed?

The Grant of Representation gives a person the legal right to administer an estate, so that they can carry out the wishes of the deceased. Institutions will usually need to see a Grant of Representation before they transfer control of any assets to the executor. Getting a Grant of Representation as quickly as possible is really important, so you can pay any outstanding bills, sort out finances and share out the assets in a will.

## 3 How does it work?

Before applying for Grant of Representation, it's important to check for a valid will, and to examine it to see who are named as the executors – these people can then apply for a Grant of Representation. If there are no executors named, then there are rules set out in law for who is able to apply. Usually, this will be the deceased's next of kin.

## 4 How do I apply for a grant of representation?

The Probate Registry section of the courts is responsible for issuing Grants of Representation. You can apply for probate yourself, but be warned, it is a complex process that can be extremely time consuming, and more than a little stressful. The alternative to applying for probate yourself is to utilise the services of a solicitor to manage the probate process from start to finish.



# Probate

## 5 When is a grant of representation needed?

You will need to apply for a Grant of Representation if the estate of the deceased includes any of the following:

- Assets valued in excess of £5,000 (including property)
- Stocks or shares
- Property or land assets
- Some insurance policies

## 6 How much does it cost?

At Graham & Rosen, we can manage the application process for a fixed fee (please [contact us](#) for further details). If required, we can also manage the entire estate administration process – the cost of which will depend on the complexity and size of the estate.

## 7 Can you contest a will after probate?

Yes, you can, although there are some time limits, depending on the type of claim you want to make. These time limits can be as little as 6 months after probate is granted. From a practical point of view, it's sensible to make challenges as soon as possible, preferably before probate is granted.



# Other Questions

- 1 How is a will stored/where is it kept?
- 2 What do I do about my business interests in my will?
- 3 Can my will be disputed?
- 4 Do I make funeral plans in my will?
- 5 What happens to my property abroad in my will?

# Other Questions

## 1 How is a will stored/where is it kept?

Whilst there are no strict rules as to where you have to keep your will, you need to keep it safe, and somewhere the executors will find it. Over time, it's easy for wills to become lost or misplaced, which can cause serious problems for your family in the event of your death. The best option is to keep it with your solicitor.

At Graham & Rosen, we employ a fully secure, three part will storage system to ensure that your will is always safe. We keep a physical copy in a fireproof strong room, and a digital copy in our servers. We also register all wills with Certainty, the national database of wills, so that it can be found by any solicitor in the country.

## 2 What do I do about my business interests in my will?

There's a lot to consider when leaving business assets in a will, and it can be extremely complex – with a host of implications when it comes to tax, family affairs, structuring assets and business succession. The best advice we can give is to get support from an experienced solicitor.

## 3 Can my will be disputed?

Yes it can, for a number of different reasons, including if:

- The will is invalid, fraudulent or forged
- The will has not made adequate provision for your financial dependents
- Your assets or debts haven't been properly dealt with
- The executors are acting improperly
- Your will was made at a time when you weren't sound of mind
- You've been unduly coerced into making a will or changing some of the terms
- There were errors made during the drafting of the will that do not reflect your true intentions

# Other Questions

## 4 Do I make funeral plans in my will?

Whilst there's no obligation to set out funeral plans and requests in your will, it is a good idea. However, it's worth noting that these are not legally binding as part of the will and your next of kin will be under no obligation to follow these plans.

If you've already made plans for your funeral, like purchasing a pre-paid funeral package, then it is a good idea to outline these in the will, so your family will find them before making their own arrangements.

## 5 What happens to my property abroad in my will?

Dealing with overseas assets can be complex, and what happens will depend on several factors, including:

- Where the property is
- The value of the property
- The value of your estate as a whole
- The rules and regulations in the country where you own the property

In some cases, it may be prudent to have a will written in the country that you own the property. If in any doubt, contact a solicitor with a good network of overseas contacts, who will be able to advise you on the right steps to take. At Graham & Rosen, we're members of TEN (The European Network) – which gives us access to a co-operative of national law firms in 13 different European countries.



At Graham & Rosen, we can help to ensure that you've got effective, tax-efficient plans in place for the sustainable management and protection of your wealth and assets through a full range of Wills and Probate services

[www.graham-rosen.co.uk/personal-law/wills-and-probate/](http://www.graham-rosen.co.uk/personal-law/wills-and-probate/)

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