

A photograph of a modern interior space. In the foreground, a green tufted leather sofa sits on a wooden floor. To its left is a low wooden coffee table with a small bowl on it. To its right is a black side table with a lamp. The background is a brick wall with industrial elements like a duct and a staircase visible above. The text "A guide about your Will once signed" is overlaid in white.

A guide about your Will once signed

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Est. 1840

Letter of Wishes

You may want to consider preparing a Letter of Wishes. A Letter of Wishes is a document that accompanies your Will. It is not legally binding but can guide your executors and trustees to ensure, as far as possible, that your personal wishes are carried out. You must take care that a Letter of Wishes does not contain anything that could conflict with the Will. The Letter can advise on anything but most common uses include:

- who to notify of your death, or in some cases, who not to tell;
- the style of funeral you want, whether you want burial or cremation, and any specific instructions regarding the service, where you would like to be buried or have your ashes scattered;
- listing your main assets, including bank accounts, life insurance policies, expensive items of jewellery and their location, to help your executors administer your estate;
- guiding your executors and trustees on how you would like any money managed, or trusts created by your Will, if any, to be run;
- advising guardians on how you would like your children to be raised, their religious upbringing, education, and where they live. These details should be reviewed as the children grow up;
- giving more detailed information to help your executors identify specific items you are giving away in your Will;
- providing explanations as to why you have excluded someone from your Will, if you think that it may be considered a controversial decision or may be challenged after your death,

A Letter of Wishes should be written in plain English, signed and dated, but not witnessed to avoid any claim that it has become a legal Will or codicil.

Digital Assets

Digital assets can take many forms. Among other things, they may be online photos, music libraries, social network profiles or email accounts. Most of us don't have physical records of such things; therefore, digital records can be of substantial value and may also be of particular sentimental value. You should therefore consider the following:

- the digital nature of assets does not alter the fact that they are, indeed, assets. They form part of your estate on death, and it is still therefore important to leave clear instructions to your executors about what should happen to these assets when you die;
- keep a digital asset log with your account details and ensure that this is updated regularly, whilst keeping both a hard and a soft copy of this log. With regards to the latter, use a software programme or a service which stores passwords; also known as a “digital locker”. This locker will then release your information to those nominated recipients at the appropriate time;
- since your digital content may actually be owned by online service providers, and there may be difficulties with your executors accessing your online content, you should back up your digital assets, for example, by storing your photos on a disc or printing out hard copies.

Why change your Will?

You should review your Will every five years or so and when a major life event occurs, such as a marriage, divorce, separation, the birth of a child, the death of a relative or a change in your financial situation. These events may have an impact both on your wishes for the distribution of your estate and on the validity of your current Will.

How to change your Will

To change your Will, you cannot simply write changes on an existing Will. Such alterations are assumed to have been made after the Will was executed and so they do not form part of the original Will and would not be valid.

You can make a codicil. This is a document supplement to an existing Will that makes some alterations but leaves the rest of the Will intact. It is a legal document that is as legally binding as the original Will.

If you need to make a major change to your Will, or make more than one or two minor alterations, it is advisable to make a new Will. Minor changes can be made by signing a codicil.

Do I have to change my Will if I get remarried or divorced?

If you marry, remarry or enter a civil partnership, this cancels a previously existing Will unless it was made in contemplation of marriage to the person you later married. Divorce does not automatically invalidate a Will made during the marriage, but does exclude your ex-spouse or civil partner from benefitting (only after the divorce is finalised) if they are mentioned in the Will, but you should arrange a new Will if you marry, separate or divorce.

Destroying any previous Will

If you had previously made a Will and have now made a new one, it is important that the previous Will and any codicil are destroyed, so that when the time comes there will be no confusion as to which Will is the legally valid one.

This is especially important if certain provisions have been made in a previous Will which have since been changed in a newer one. For this reason, the disposal of all old Wills and codicils is strongly advised.

To destroy a Will, you must burn it, tear it up or destroy it in a way that makes it obvious that its destruction was intentional. There is a risk that if a copy subsequently reappears or pieces of the Will are reassembled, it might be considered that the destruction was accidental. If it is proved that a Will has been accidentally destroyed, it could be considered legally valid unless revoked by a subsequent Will.

Changing a Will after death

If someone dies with or without a valid Will it is possible to change their Will with regard to the distribution of their assets. In some circumstances, it is beneficial for beneficiaries to change a Will for tax purposes after the deceased's death. This can be done by a Deed of Variation, and must be signed within two years of the death. It can only be completed if all the beneficiaries who are affected by the changes are of full age and agree.

The most common reasons for changing a Will after death are:

- to reduce the amount of Inheritance Tax payable;
- to provide for a person who has been omitted from a Will or who has not been adequately provided for in a Will (such as new grandchildren);
- to provide for someone who has a legal claim on the estate;
- to redirect a property held in a joint tenancy which would otherwise pass to the surviving joint tenant;
- to resolve any uncertainties or defects in the Will.

This is intended as a guide only and is not a substitute for taking full legal advice.