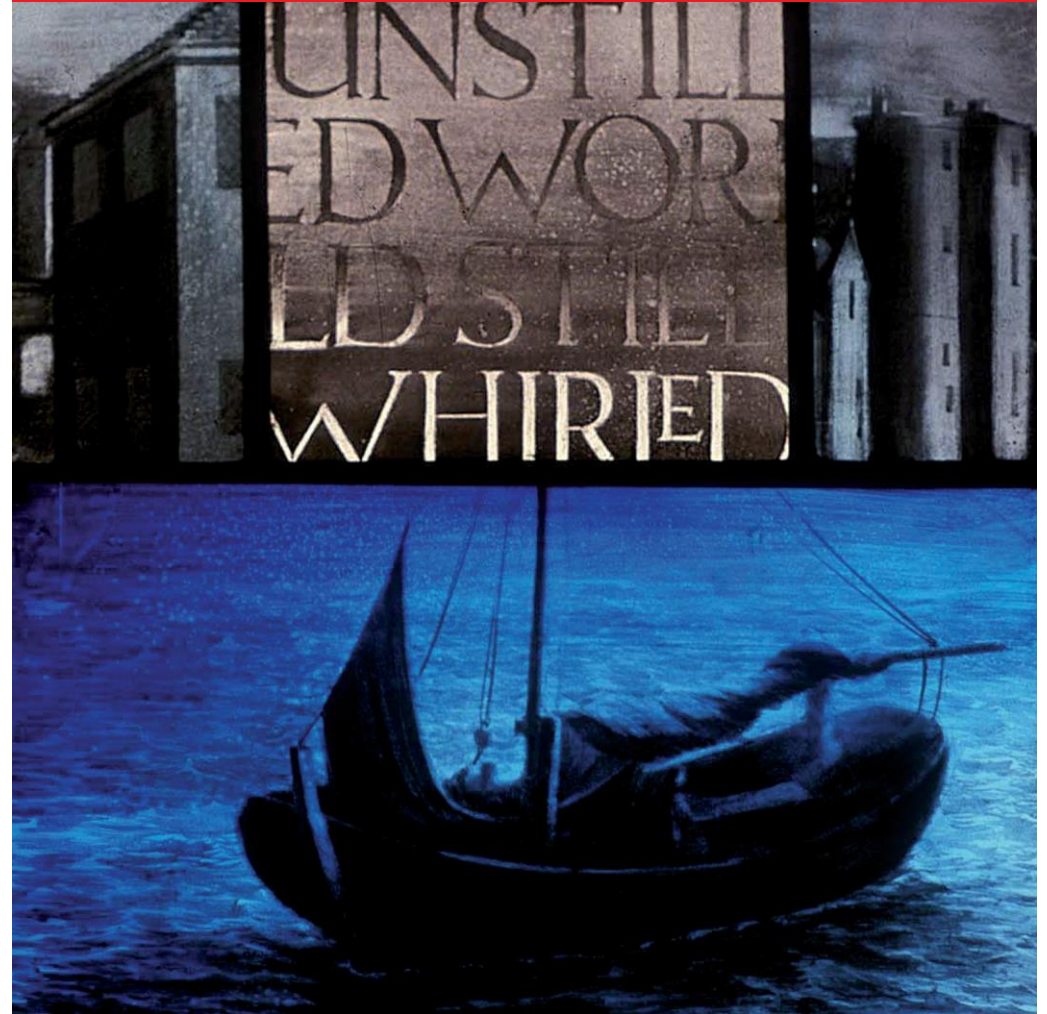


A simple guide to making a Will

This booklet will help you through the decisions you need to make when writing your will



Common excuses for not making a will

Many people have reasons why they haven't made a will. Unfortunately, most are based on false assumptions!

“It's too expensive to make a will.”

Thanks to a partnership between the Church of England and Farewill, you can write your will for free online. Visit www.farewill.com/southwarkdiocese for more information and to make a start. Otherwise, straightforward wills cost around £100 from solicitors, who sometimes make special offers.

“I don't have the time.”

Organising a will is straightforward and only takes a few hours. If you use the free service from Farewill, it may take as little as 30 minutes. This saves your family and friends much time, trouble and expense after your death.

“I'm too young to think about dying.”

Unfortunately, tragic accidents do happen. Without a will, your assets may be distributed according to a fixed legal formula. It is particularly important to write or amend your will if you get married or buy a house, and to appoint potential guardians when you have children.

“Thinking about dying makes me uncomfortable.”

The old adage says “There are only two certainties in life - death and taxes!” The Christian hope gives confidence to face this with faith and trust.

“I don't have anything to leave.”

You may own a few treasured items you would like to pass on to friends or relatives. Without a will they will be sold (probably cheaply) and proceeds used to pay legal costs or distributed according to an official formula.

“My partner will get it all anyway.”

Not necessarily! Married spouses may not get everything, especially if there are children or the estate includes a property. Partners who are not legally married or in a civil partnership may get nothing.

Five steps in making a will

1. Spend some time thinking through the wishes you would like to express in your will

The checklist on pages 4 to 7 will help you to think through:

- what you own and owe
- who will carry out your will?
- what particular gifts you want to make
- how to share the rest of your estate
- who to appoint as guardians for children.

2. Decide which solicitor or will writer you will use

Choose an probate solicitor or other will writing professional and make an appointment. Many solicitors will offer a fixed price for straightforward wills. To write your will for free online, visit www.farewill.com/southwarkdiocese.

3. Visit your solicitor or log in to write the will

Take this checklist with you. If you are leaving a gift to the church, you may want to take the “Glossary and technical wording” page. If your estate is large or complex, your solicitor will also advise whether you might benefit from additional tax planning consultations.

Once you are happy that your will reflects your wishes you will need to sign it in the presence of two witnesses, neither of whom should be beneficiaries of your will. Most solicitors will arrange this for you.

4. Consider writing a non-binding letter of wishes to accompany the will

This can cover a wider range of wishes, for example, for your funeral and other matters, together with other useful information for your executors.

5. Decide where you will store your will

Most solicitors will store the original of your will securely without charge. Keep a copy in your personal private papers at home, and don't forget to let your family and executors know where the original is.

Preparing to visit your solicitor

These next four pages aim to help you think through the wishes you want expressed in your will.

It's a good idea to complete as much as you can before you visit your solicitor, including full names and addresses. If you have previously made a will or added a codicil take it with you when you visit a solicitor. If you share the ownership of assets, such as your home, then this should be taken into account.

1. Your details

Full name:

Address and postcode:

Phone:

2. Value your assets

Category	Main Items	Approx Value
Property	Your home	£
	Additional property or land	£
Contents	Furniture and fittings etc	£
Valuables	Jewellery, art, antiques etc	£
Savings and investments	Savings in bank and or building societies	£
	Shares, investments and ISAs	£
	National Savings, Premium Bonds	£
Insurance and Pensions	Life Insurance, Endowments, Pensions etc	£
Other Assets		£
Total Assets		£

3. Liabilities: What you owe

Category	Main Items	Approx Value
Property	Mortgage	£
Loans	Loans outstanding	£
Credit	Outstanding credit card balances and credit agreements	£
Bank Investments	Bank overdraft	£
Other Liabilities		£
Total Liabilities		£

Net Assets	Total Assets minus total liabilities	£
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Note: Remember to split the value of any joint assets or liabilities.

4. Your Executors

Most people appoint one or two executors and try to include one well-organised, local younger family member or friend. You can include your solicitor, bank or accountant, but your estate will be charged for their professional work. Ensure that at least one of your executors is likely to survive you.

Full Name	Address and phone number

5. Specific gifts or legacies

Specific items (e.g. heirlooms, paintings, jewellery) that you want to leave to family, friends or charities. Describe them in enough detail to avoid future misunderstandings.

Item Description	Who it is given to, address and phone

6. Gifts of money

List any set sums of money you may wish to leave to people and/or to your parish or charities. These are called pecuniary legacies.

Amount	Who it is given to, address and phone

7. Sharing the remainder of your estate

List the people and/or parish or charities that you would like to share the remainder or residue of your estate once all of the above gifts have been made. These gifts are called residuary legacies.

Proportion of residue (%)	Who it is given to, address and phone

8. Young children

Do you have dependent children? If so, it is advisable to appoint a guardian to look after them until they are at least 18 years old. You should ask for the potential guardian's agreement before appointing them.

Guardian's name:

Address and postcode:

Phone:

9. Other instructions and requests for executors

Sometimes it may be sensible to write a side letter to your executors setting out your non-binding preferences. The letter should be stored with your formal will, but not attached to it.

10. Questions for your solicitor or other professional advisers

Glossary and technical wording

The definitions below are offered as a guide to help you prepare to write your will.

Administrator Someone who is appointed by law to settle your affairs if you die without a will (intestate).

Beneficiary Anyone who receives a gift from a will.

Bequest In the UK it generally refers to a specific legacy of a particular object (e.g. a specified painting rather than £500). Overseas it describes any type of legacy.

Chattels Personal belongings, including jewellery, furniture, wine, pictures, cars, but not money, investments, property or business assets.

Child In will or intestacy matters, includes the adopted and illegitimate children of the person who has died, but not their stepchildren unless they are specifically mentioned. Legacies are often left in trust for children until they are 18 or 21 or 25, rather than the legal limit of 16.

Civil Partners Since December 2005 registered civil partners have the same legal rights as a spouse should their partner die intestate.

Common-law spouse A common-law spouse has no automatic legal rights to be an executor or beneficiary in English law, although a dependent partner who lived with the person who died for two years before their death may be able to claim a share of the estate.

Codicil A further document making a change, or adding to, an existing will. It must comply with the same formalities as the will. It should be filed with the original will but not attached to it.

The Crown Where the money goes (your estate) if you have no next of kin and did not make a will - in reality it means HM Treasury.

Devise A gift of a house or land.

Estate The total value of everything you own at your death (including all houses, cars, investments, money and belongings) less any outstanding debts or commitments.

Executor The person(s) you choose to make your will happen. Usually you will have one or two (in England the maximum is four). Often this will be a younger relative or friend, and your solicitor or bank. Female form is Executrix.

Funeral arrangements Directions you may give in your will (or a non-binding side-letter to your executors) regarding your wishes such as details of your burial, funeral service, in memoriam gifts to charity in lieu of flowers, etc.

Inheritance tax A 40% tax payable on estates over a certain threshold, currently £325,000 in 2009-10. Gifts to churches and charities reduce the value of an estate for inheritance tax purposes.

Intestacy The legal term for the situation that arises when someone dies without making a legal will. The estate is then distributed according to a fixed legal formula.

Issue All the direct descendants of a person - children, grandchildren and so on.

Legacy A gift in a will. It can be:

- specific legacy - a definite object or property (e.g. a specific car, property or painting)
- pecuniary legacy - a gift of a specific sum of money
- residual legacy - a gift of (a share of) the money of assets left when other specific and pecuniary legacies and expenses have been paid i.e. the remainder of the estate
- life interest - for example, “to my wife for her use in her lifetime, then to charity”
- reversionary interest - what happens when the life interest expires
- conditional interest - a legacy which is dependent upon an event or specified criteria being met.

Letters of administration The document issued to the administrators by the Probate Registry to authorise them to deal with the estate.

Life interest The right to receive the income or benefit from a property or capital sum (but not the capital sum itself) for life. See also under Legacy above.

Minor A person under 18.

Next of kin In will or intestacy matters, the person entitled to the estate when someone dies intestate (without a will).

Pecuniary See under Legacy above.

Personal estate (personalty) All the investments and belongings of a person apart from land and buildings.

Personal representative A general term for an administrator or executor.

Probate The legal process to establish your will is valid. If it is, the Probate Registry will give a Grant of Probate to the executors to authorise them to carry out the terms of the will. If it is not valid or the person died intestate, an administrator is appointed.

Probate Registry A court within the Family Division of the High Court which deals with probate and administration matters. The Principal Registry is in London and there are district registries in other cities and some large towns. It checks the validity of all wills and registers them in a central database. See www.gov.uk/government/publications/store-a-will-with-the-probate-service.

Proving the will Making the application for probate to the Probate Registry.

Real estate (realty) Land and buildings owned by a person.

Residue What is left to share out after all the debts, taxes, expenses specific bequests and pecuniary legacies have been paid. See Legacy.

Specific Particular tangible items left as gifts in a will. See Legacy.

Testator The person making the will. Female form is Testatrix.

Trust An arrangement you can make in your will to administer part of your assets after your death. For more complicated Trust provisions, you should contact a local solicitor who specialises in trusts and probate.

Will The document in which you say what will happen to your money and possessions after your death.

Witness Two witnesses must see you sign your will and you must also watch both of them sign it. They must also watch each other sign the will. No beneficiary (or their spouse) should sign the will; if they do any gift to them or their spouse will be invalid and will fail.

Choosing an executor

Who should I choose as my executors?

- You can choose up to 4 people (in England) and this can include a solicitor
- It is usually best to choose 1 or 2 people from next generation who you trust and are reasonably well organised individuals
- It is best if one of your executors is fairly local so they can look after your home
- The executors can ask a solicitor or other probate professional to deal with more technical aspects but probate professionals will charge professional fees to the estate.

It's a good idea to help your executors in their role by keeping a list of your assets and liabilities so they can track down your estate.

Suggested wording for your solicitors

We strongly recommend that you seek professional advice when drawing up a will, and the suggested wording below is intended to help your solicitor or professional adviser with specific points in relation to the Church of England.

A legacy of a share in your residuary estate to a church might be simply expressed in a will as: I give x% of my residuary estate free of all taxes to the Parochial Church Council of St Agatha's, Anytown, in the Diocese of Southwark and its successors for its general purposes, and I declare that the receipt of an officer of the Council shall be a sufficient discharge to my executors.

A pecuniary legacy for a fixed amount of money given to a charity such as the Church and Community Fund for the benefit of parishes across the nation might be: I give to the Diocese of Southwark, the sum of £NNNN free of all taxes for its general purposes, and I declare that the receipt of an officer of the charity shall be a sufficient discharge to my executors.

Notes:

1. Legacies to the church should be made payable to the Parochial Church Council (PCC) as the legally accountable body, not to the Incumbent and Churchwardens.
2. If the donor would prefer the PCC to use part of their legacy for some particular purpose in the church, they are advised to write a non-binding letter to their executors setting out their wishes, and store it with the will. The PCC will then consider their request, and will normally do their best to meet it in the light of the church's circumstances after their death.
3. If there are several churches in a parish, legacies can be restricted to a particular church by saying "for general ecclesiastical purposes connected with St Agatha's, Anytown".

4. Most PCCs (those with incomes under £100,000) are legally excepted from having to register with the Charity Commission, so do not have a unique charity registration number. The current exception is granted under section 3(5) of the Charities Act 1993 by the Charities (Exception from Registration and Accounts) Regulations 1996 (no 180) as amended by The Charities (Exception from Registration) (Amendment) Regulations 2002 (no 1598). If the PCC has a Registered Charity number, this can be quoted after the name of the PCC.
5. A solicitor may want to include phrases in a legacy to your church like "to be applied both as to capital and income"; or "for such purposes specified in the Parochial Church Councils (Powers) Measure 1956 as are charitable". Solicitors may suggest other wordings of charitable legacies to suit particular personal circumstances and wishes.
6. Remember that witnesses to a will or codicil must be independent and cannot receive any benefit. So if a church is going to benefit from a legacy, the document must not be witnessed by any of the clergy or parish officers.

Keeping your will up to date

Over time things change. The arrival of children or grandchildren, changes in family circumstances, moving house, and many other factors, may cause you to change the wishes you want expressed in your will.

Keeping wills reasonably up to date is not only sound financial management, but good Christian discipleship. Most Christians pray about how much they will give to their local church and other Christian agencies on a regular basis. When writing our wills we can also pray about how we allocate the assets God has given us on earth. Why change the habits of a lifetime?

Think about making a note to review your will every five years, eg. in years with significant birthdays ending in a 5 or 0, or when significant family changes occur.

For further information

Resources to help PCCs

More information on legacies and how to encourage legacy giving is available from our Generosity and Giving Team.

Contact: Generosity and Giving Team
Diocese of Southwark
Trinity House
4, Chapel Court
Borough High Street
London

Tel: 020 7939 9400

Email: gabby.parikh@southwark.anglican.org

Further resources include:

- A leaflet for PCCs;
- A general leaflet on legacies and wills;
- A guide for parishes appointing a volunteer legacy coordinator.

Additional information also available from:

www.southwark.anglican.org/legacies

The Diocese of Southwark's website

www.churchofengland.org/legacy

Information from the Church of England on how to leave a gift to your church in your will.