



Personal
Finance
Society
Standards. Professionalism. Trust.

Good Practice Guide

JUNE 2021

Growing appetite for wills and their role in effective inheritance tax planning A guide for financial advisers

Foreword	2
Introduction: Financial advisers and will-writing	3
Intestacy in the UK	3
Inheritance Tax planning: Tax breaks and benefits	4
Understanding when clients may wish to write or update their will	4
Approaching will-writing conversations	5
Writing or reviewing a will	5
Helping clients leave their affairs in order	6
Leaving a legacy	6
Digital estates	7
Power of attorney	7
Good practice for advisers	8
Useful links	9

In partnership with



**REMEMBER A CHARITY
IN YOUR WILL**
Help the work live on...

This paper is in response to members' requests to provide a summary of good practice within one source document and is based upon the Personal Finance Society's understanding of the regulators rules and current stance. Whilst a summary, it is not intended to be exhaustive and should not be relied upon at the exclusion of other sources of information.

Foreword



Keith Richards

Chief Executive Officer
Personal Finance Society

Most of us will need legal advice at some point in our lives. When it comes to advising those in later life, financial advisers and planners have to be able to combine competence in a broad range of technical financial subjects with an appreciation of the legal aspects of later life advice, including when to involve legal professionals to ensure good client outcomes.

One growing aspect of later life advice is the delivery of a comprehensive financial plan or strategy involving amongst other things the long- term management of income and assets, the meeting of care needs and intergeneration wealth transfer. Powers of attorney and an up-to-date will are a key part of this, yet when it comes to wills almost six out of every 10 adults still haven't put one in place or updated it to reflect changing circumstances.

As we approach the greatest intergenerational wealth transfer in history across the UK, during which baby boomers are predicted to pass on more than £5.5 trillion in wealth over the next 25 years, it is increasingly important that financial advisers and planners regularly check that clients have a valid and up to date will in place as part of the annual review and incorporate the option to remember a charity. The Personal Finance Society has developed its series of good practice guides to include some of the key aspects of wills and their role in effective inheritance tax planning.

We hope you find this guide timely, informative and useful.

A handwritten signature in black ink, which appears to read 'Keith Richards', written over a horizontal line.

Introduction: Financial advisers and will-writing

The UK is on the verge of the greatest intergenerational wealth transfer in history. Baby boomers (born 1946-1964) are predicted to pass on more than £5.5 trillion by 2047¹ and there is renewed appetite among the public to leave the world a better place. But what happens to that wealth is highly dependent on whether or not a client has formalised their wishes in a will.

Dying intestate can significantly increase the burden – financial, administrative and emotional – on the estate and on those who are left behind. Given the long-term nature of many client-adviser relationships, financial advisers have a key role to play in ensuring assets are transferred successfully by encouraging all clients – no matter where they sit on the wealth spectrum – to protect their finances and loved ones in their will.

In a recent consumer survey from the Law Society, figures show that only around four in ten UK adults currently have a will, and just three in ten have one that is up to date. However, since the nation went into lockdown during the first wave of the coronavirus pandemic in 2020, there has been a heightened sense of awareness around our mortality, opening up conversation about end-of-life planning as never before. The public clearly want to ensure their affairs are in good order, to protect their friends and family, benefit good causes and – for those with larger estates – to minimise any Inheritance Tax liability.

Financial advisers regularly check to ensure clients have an updated will in place, but what more can be done to support that process? This guide covers some of the key things you need to know about wills and Inheritance Tax to support clients' finances to the end.

Intestacy in the UK

A will is key part of a comprehensive financial plan and yet almost six in ten adults (59%) don't have a will². There are many reasons for this. Sometimes, it's because there are particularly difficult decisions to make or a reluctance for clients to consider their own demise. It could be that your clients don't think they have anything of value to leave behind or that they are too young to plan their will. But it's also often that they simply haven't found the time to get it done. Professional advice (legal and financial) can be a huge help in overcoming these barriers, helping clients leave their affairs in good order.

Dying intestate can cause a huge amount of uncertainty and anxiety, increasing the risk of family feuds, making it difficult to access and transfer assets, and to complete the administration of the estate. What's more, those who die without a valid will lose control over their estate. Instead, intestacy rules come into play, determining how any assets should be distributed based on a strict order of family connections, irrespective of the closeness of those relationships. (These rules differ a little in Scotland and Northern Ireland to those in England and Wales.)

It's important to note that any unclaimed assets from an estate will ultimately pass to the Crown. In other words, a will is the only sure way for clients to determine what happens to their estate once they are gone and how they wish to support their family, friends and good causes.

Did you know?

£15 billion

In the UK, it's estimated that there is more than £15 billion of unclaimed assets sitting in the accounts of the deceased³.

¹ Kings Court Trust, **Wealth Transfer in the UK**

² **Law Society**, December 2020

³ **The Independent**, 2019

Inheritance Tax planning: Tax breaks and benefits

Charged at 40%, Inheritance Tax (IHT) can make a hefty dent in the value of large estates. But financial planning can reduce or even eliminate the tax burden. This might include moving funds into a pension wrapper ahead of retirement, making lifetime gifts or setting up a trust.

In the UK, IHT is only chargeable on the value of the estate exceeding the personal tax-free allowance (Nil Rate Band). Currently, this enables clients to pass on up to £325,000 to beneficiaries without incurring IHT. But the allowance can increase by another £175,000 for estates of married couples or civil partners where a property (residence) is being handed down to the deceased's adult children (Residence Nil Rate Band). This means that married people or civil partners can have a total allowance of up to £500,000 each. Additionally, assets can be passed to a legal spouse or civil partner tax-free, effectively doubling the tax allowance for the surviving partner, taking the joint allowance of married couples or civil partners up to £1 million. (However, if the value of their joint estate exceeds £2m, the RNRB gradually tapers off.)

An increasingly popular means of giving, charitable bequests are also free of tax, further extending the amount that people can leave behind without incurring IHT. Plus, clients that wish to donate 10% (or more) of their estate to charity will benefit from a reduced IHT rate of 36% – this can amount to a considerable reduction on larger estates. For those whose estates have tipped over the IHT threshold, the tax benefit can be a particularly powerful incentive to give.

Inheritance Tax Allowances

£325,000	Personal IHT allowance (Nil Rate Band or NRB)
£175,000	Residence Nil Rate Band (RNRB)
£500,000	Total IHT allowance (NRB and RNRB)
£650,000	Combined personal IHT allowance for spouses or civil partners (combined NRB)
£1 million	Combined total IHT allowance for spouses or civil partners (combined NRB and RNRB)
Free of IHT	Charitable donations are free of IHT. Estates where 10% or more is gifted to charity benefit from a reduced IHT rate of 36%.

See [Gov.UK's IHT Reduced Rate Calculator](#)

See more at [Gov.UK/inheritance-tax](#)

Understanding when clients may wish to write or update their will

Although people tend to be in their 50s⁴ before they write their first will, the current global health crisis has been a catalyst for change, with the Law Society reporting that 7% of the UK public wrote a will during the first national lockdown of 2020⁵. Many solicitors, will-writers and charities recorded a spike in demand for wills during this time. Plus, there have been signs of an even more marked uplift among younger people. Farewill – an online will provider, reported a 300% increase in the number of under-35s writing a will from 2019 to 2020⁶.

Writing a will is often triggered by a significant event such as getting married or divorced, the birth of a child, buying a house, being diagnosed with a serious illness, the loss of a loved one or at retirement. Such events dramatically influence people's lives and their final wishes, particularly when it comes to marriage. In England and Wales, getting married automatically invalidates any previous will, unless the existing will includes a clause indicating that it is not to be revoked by marriage. This makes it all the more critical that wills and related documents are regularly reviewed and updated to ensure they reflect clients' wishes.

4 [WillSuite Industry Report 2020](#)

5 [Law Society Survey](#), December 2020

6 [Farewill; A Year in Wills](#), 2020

Approaching will-writing conversations

As a financial adviser, you can play a crucial role in encouraging clients to have an up-to-date will, and in helping to ensure that it best reflects their financial circumstances. In a recent PFS survey, the large majority of financial advisers (83%) said they always asked clients if they had an up-to-date will, with a further 16% saying they did so regularly or occasionally. Typically, clients are asked about their wills in an initial client interview or 'fact find' and check that it remains up to date in ongoing financial reviews.

These reminders can be greatly valued by clients, particularly during retirement planning, at other life-changing moments or where inheritance tax savings can be made.

Writing or reviewing a will

There are many ways to write a will (in person, over the telephone or online). While independently written or 'DIY wills' have become increasingly common during the pandemic, specialist legal advice is always recommended to ensure clients' wishes and their estates are comprehensively addressed and protected. With a huge rise in contested wills in recent years, this is all the more important. Solicitors, legal executives and professional will-writers can all provide excellent services, but a key distinction is that, while anyone can be a will-writer, solicitors or legal executives are lawyers and are therefore regulated.

For the will to be legally valid, it must be signed and witnessed. In England, Wales and Northern Ireland, signing of the will has to be witnessed by two people simultaneously who are not beneficiaries of the estate. However, in Scotland there only needs to be one witness and that witness can inherit from that will. That said, regardless of the jurisdiction, it is usually not advisable for a witness to be a beneficiary as it makes it more likely that the will may be challenged.

Any will must be stored safely, somewhere accessible so that it can be easily found when the time comes. Typically, people choose to store their will with their legal adviser, with the Probate Service (HM Courts & Tribunals Service) or locked up in a safe. For added peace of mind, physical or digital copies can be stored with clients' professional advisers or executors, registered with a National Will Register, of which Certainty is the largest in the UK, and/or with a secure digital estate planning service.

While every will should be reviewed and updated regularly, some amendments (such as adding or removing a beneficiary, changing executors or funeral wishes) can be made in the form of a codicil – a supplementary legal document. As with a will, this also needs to be stored safely.

What is likely to be covered in a will

People's wills can vary widely, but are likely to include:

- Instructions as to how clients want their estate to be divided among beneficiaries (family, friends and good causes)
- Confirmation of who will be the executor(s) of the estate
- Appointment of legal guardians for any children under the age of 18
- Any preferences for funeral arrangements and organ donation

Did you know?

100

More than 100 people in the UK now leave a gift to charity in their will every day.

Helping clients leave their affairs in order

As a financial adviser, you may well already do far more than reminding clients to update their will. Many advisers will recommend a trusted legal partner who specialises in will-writing or estate planning, help to assess the value of assets in the estate, the potential tax liability and how to make best use of any available tax breaks.

Although a will is the primary estate planning tool, it's not the only one and – being a public document – it's not the right vehicle for detailing passwords, confidential or sensitive information. So, clients will need to consider how they will record and pass on any other relevant information (including contact details for professional advisers) in the event of their death. This might include writing a letter of wishes and/or filing records with digital estate platform like Once I've Gone. This information can be kept confidential and updated regularly, but again, it must be stored safely and accessibly.

Leaving a legacy

Typically, people use their will to ensure their loved ones – family and friends – will be looked after when they are gone. But increasingly, the UK public is making space to donate to charities and good causes at the end of their lives too. From 2019 to 2020, Co-op Legal Services saw a 61% rise in the number of the firm's clients leaving donations to their will. Gifts in wills now raise over £3.4 billion⁷ for good causes annually and are the largest single source of voluntary income, sustaining vital charitable services across the country.

Inheritance Tax reductions can be a strong incentive for people to give generously, but the actual decision to leave a bequest is usually driven by more emotive or philanthropic drivers. Ultimately, people give because they want to leave the world a better place, to have a positive imprint on those around them and they want to be remembered for doing good. A charitable bequest enables people to achieve all this.

Annual consumer tracking indicates that the appetite for legacy giving is on the rise, with 40% of people aged 45+ saying they would be happy to leave a donation in their will in 2019, up from 35% in 2008⁸.

“People often think that you need to have a huge estate to leave a charitable bequest, but the wonderful thing about gifts in wills is that even a small amount to your favourite charity can make a huge difference. If it weren't for people's bequests, many vital services – from homelessness to mental health support – would have come to a grinding halt during the pandemic when so many other income streams closed down. Every gift matters. What a wonderful way to shape the world when you're gone!”

Rob Cope

Director of the charity consortium,
Remember A Charity

Did you know?

6 out of 10

6 out of 10 RNLI rescue launches would not be possible without gifts in wills

2 out of 3

2 out of 3 guide dogs are funded through charitable bequests

1/3

One third of Macmillan Cancer Support's nursing services is funded in this way

Find out more about charitable gifts in wills at www.rememberacharity.org.uk

⁷ Legacy Foresight 2020

⁸ OnePoll, 2019

Digital estates

In today's increasingly online world, people accumulate a huge number of digital assets, from photos, songs and videos to online and social media profiles. Currently, the average person has over 80 online accounts⁹ and their digital belongings can be just as valuable or sentimental as any in the physical world, but rarely are these included in people's wills.

Without a clear action plan in place for digital effects, profiles and passwords, family members may find they are unable to unlock financial assets or access family photos, documents and accounts, all while dealing with the emotional turmoil of loss. Proactive planning and gifting of digital assets can not only serve as a poignant legacy, but greatly alleviate the stress and burden on grieving relatives, ensuring passwords, account information and details of any professional advisers are accessible to trusted contacts.

"Taking care of your digital estate ensures that your loved ones are able to access all they need to, without being faced with any additional stresses or uncertainty during probate. What's more, we have the power to build an incredible digital legacy, with video footage, photos and written messages, all of which can be such an amazing way to communicate how much we care and to bring comfort to those we love when we are gone."

Ian Dibb

Founder and CEO of digital estate planning platform, **Once I've Gone**

Power of attorney

Nobody likes to think of a scenario where they are unable to make their own decisions, but giving one or more trusted people powers of attorney is one of the most simple and important steps clients can make to protect their financial futures. With an ageing population, the rise of dementia and other mental health conditions, the number of registered attorneys in the UK is growing fast. Still, many clients are yet to grant such powers. This can make it incredibly difficult to access family finances, sell a home, or to make end of life decisions if a client loses capacity to decide for themselves.

In England and Wales, people can delegate financial decisions to those they trust by making a Lasting Power of Attorney (LPA). In Scotland, this can be done through a Continuing Power of Attorney and in Northern Ireland via an Enduring Power of Attorney. In each case, clients must have sufficient mental capacity to understand what they are doing in terms of allocating such powers, appointing their representatives and making any associated instructions in a formal legal document. This will need to be registered with the relevant public office should the donor lose capacity to make any subsequent decisions.

For elderly clients, those who may be vulnerable and those whose wishes are most likely to be disputed when they are gone, it is advisable to consider seeking a testamentary capacity assessment from a medical practitioner or legal professional with the skills to assess capacity. Such an assessment will provide added protection around their final wishes, ascertaining whether clients are of sound mind.

9 **Once I've Gone**, 2020

Good practice for advisers

As we approach this peak moment in the transfer of wealth from one generation to another, financial planning, wealth management and Inheritance Tax will become all the more prominent. Advisers are ideally placed to support clients in minimising any tax burden on the estate, ensuring that their finances are comprehensively addressed within their will and to support future generations as they inherit these investment portfolios. And that means building and sustaining a broad knowledge base around wills, Inheritance Tax and wider estate planning issues

This section shares some tips and recommendations for supporting your clients' finances to the end and ensuring that their final wishes will be met.

Check that clients have a current and valid will – Include relevant questions in your initial client fact find or questionnaire to establish if new clients have an appropriate, up to date and valid will that meets their needs, exploring:

- Whether the will was carried out with support from a legal professional and when it was last updated. Does this reflect their current circumstances?
- If it covers all their major assets (financial, physical and digital). With knowledge of your client's portfolio, you may be well placed to advise them on the likely value of their estate and how they can minimise the tax burden. Be mindful that those with foreign property may also need a foreign will and, where that is the case, that it can be beneficial for such assets to be excluded from their UK will. Specialist legal advice will be all the more important in such circumstances.
- Whether the will meets their wishes. Who does the client want to benefit from their estate? Are they aware that – through their will – they can take care of family, friends and the good causes they care about?
- If the will is stored safely, checking that the client has informed a trusted contact where it can be found.

Prompt clients to review or update their will regularly – During any review of the client's finances, when the client reports any life-changing event (marriage or birth of a child) or if there is a significant change to their financial circumstances, always ask clients if their will remains up to date. This is particularly important with marriage, which can revoke an existing will.

Offer support to minimise Inheritance Tax – When it comes to larger estates, advisers can often take action to reduce or even eliminate Inheritance Tax, particularly during pre-retirement planning. Ensure clients understand their IHT allowance and the tax breaks available to them.

Encourage clients to put in place powers of attorney – While it's often older clients that grant attorney powers, anyone could be incapacitated by unforeseen circumstances and this simple step can provide security and reassurance, especially for those with sizeable portfolios. Where powers of attorney have already been established, make sure it's documented, and that all powers or restrictions are as intended. When dealing directly with attorneys, make sure they have the appropriate powers to instruct you as an adviser and that they operate within the powers and responsibilities that legally apply.

Consider whether a testamentary capacity assessment is needed – Where there may be good reason to doubt capacity to make a will or where that will is likely to end up being contentious, especially from the perspective of named beneficiaries and those excluded, it is recommended that clients complete a formal assessment to establish capacity to make a will. This can provide an added level of protection to ensure testator's wishes are met.

Put a handover plan in place – In the event of a client's death or that a client loses capacity, it's helpful to have a handover plan in place, including documentation for powers of attorney and a summary of any financial records (including online accounts). This might include ensuring you have contact details for the client's close relatives, their solicitor or will-writer, executor(s) and other trusted contacts. Similarly, it can be helpful to encourage clients to pass on your contact details to the executor of their will or for your details to be included in a letter of wishes.

Remind clients to consider other end-of-life planning tools – A will is vital, but it's only one part of end-of-life planning. Encourage clients to consider what more they can do to finalise their affairs and reduce the burden on those they leave behind. This might include keeping a central record of their most important documents and confidential data and creating emotive messaging via a secure digital estate planning tool.

Useful links

Age UK, wills and Estate Planning – A short guide on wills and Estate Planning.

Gov.UK

- **Inheritance tax webpages** – Government guidance on Inheritance Tax.
- **Lasting power of attorney** – Government guidance lasting power of attorney.

Kings Court Trust, Intergenerational Wealth Transfers – Information and research about the rising inheritance economy and intergenerational wealth transfers.

The Law Society of England and Wales – Representative body for solicitors in England and Wales, providing information on legal issues, including making a will and finding a solicitor.

Once I've Gone (OIG) – A comprehensive digital platform and end-of-life planning tool for storing personal and confidential information, OIG also helps clients create lasting memories, which can be shared with loved ones in the event of a death. When clients pass on, OIG connects professional advisers with the deceased's trusted contacts, helping to resolve the estate and reduce administrative burden.

Personal Finance Society – The professional body for the financial planning profession in the UK. Part of the Chartered Insurance Institute Group.

- **Will planning to mitigate tax and avoid post death disputes** (by Barbara Gardener).
- **The key trust and estate issues from 2020** (by Barbara Gardener).
- **Gifting to charity**

Remember A Charity – A consortium of 200 charities working together to inspire the public to remember a charity in their will, offering practical information and support.

- **Guidance for talking about charitable legacies**
- **Making a will guide**

Solicitors for the Elderly – An independent, national organisation of solicitors, barristers and legal executives who can provide legal help to older and vulnerable people, their families and carers.

Society of Later Life Advisers (SOLLA) – SOLLA is a not for profit organisation dedicated to higher standards and accessibility to regulated financial advice for older people and their families.

STEP – The global professional association for those advising families across generations. Specialist trust and estate practitioners are often consulted for larger or more complex estates.

- **STEP Digital Assets Guide**

