

## Currently, Wills cannot be found for over 70% of the people who die in the UK.

For many this may be because a Will had never been prepared. For others, a Will may have been prepared and subsequently lost, mislaid or stolen. For some, a Will may be something they believe they do not need. Most people, at some time in their lives, consider making a Will but the thought often passes by without further action.

Yet many of us have felt the need to buy life assurance in order to protect our loved ones against financial hardship when we die. But without a properly drafted Will, the proceeds of any such life assurance may not go to those we would like to benefit.

We understand that making a Will can seem a daunting process. At **Guardian Inheritance Ltd** our Barrister Intermediary will guide you, painlessly, through the process to ensure your wishes are followed, when you die.

If you care about who your estate goes to, you need a Will.

Protect your family,  
make a Will today

## Why make a Will?

### If you are single

You may want your estate to go to friends and charities, as well as family.

### If you are married or have entered into a Civil Partnership

Do not assume that your partner will 'automatically' receive your estate. Other factors also come into play.

### If you are a parent

Who will look after your children? You need to ensure that you have appointed a guardian or the state will take control and your children could go into care.

### If you are retired

Your Will may be out of date and in need of refreshing. You may now wish to include grandchildren.

### If you are separated from your spouse

You may wish to exclude your spouse in favour of others, for example, children.

### If you have married or remarried since drafting your last Will

Marriage or remarriage immediately invalidates your existing Will, unless that Will was made in contemplation of your marriage/remarriage.

## The pitfalls of not having a Will

Although most people consider having a Will, they are unaware of the problems of dying intestate (without a Will).

If you die without a Will there are certain rules which govern how your assets will be handed out. This may not reflect how you wish your money and possessions to be allocated.

If you are unmarried or have not registered a Civil Partnership, but have a partner, you cannot inherit from each other unless you have a Will in place. This may have serious financial implications.

If you have a Will it may be possible to reduce the amount of Inheritance Tax payable on your estate.

If you do not have a Will, don't worry. The government has one for you.

**But your assets may not go to those you want to benefit.**

## Plan now and save!

### Having a Will is not just about ensuring that all of your possessions go where you want

or that your family is looked after. With the laws changing in regard to Inheritance Tax (IHT), more people than ever fall into the IHT bracket. UK homeowners will pay billions in increased Inheritance Tax to the government.

### Plan now and save!

Making a Will as part of your legacy planning ensures that you are in control of what happens to your property and family. Our clients find that, once it has been completed, instead of feeling dread and unease, they feel a great relief that everything will be handled as they wish.

Statistics provided by the Alzheimer's Society indicate that approximately 800,000 people in the UK are afflicted by dementia, and this number is expected to increase to around 1,000,000 by 2021.

On average, 1 in 3 people aged 65 and over will develop dementia, with almost 2/3 being women.

In the initial stages, which may last several years, a person may not even realise that they are suffering early onset dementia. It is therefore essential to take precautionary action whilst one has full capacity. It is not uncommon for people demonstrating early signs of dementia to disregard or mask their symptoms. They themselves may feel that the indicators are merely the result of passing years or fatigue. Once the early signs have progressed, it could be too late to take action, and control may be lost to you and your family.

**Lasting Power of Attorney-  
Protection and support  
whilst you are living**



0800 327 7860 or 0203 026 9927

## What is a Lasting Power of Attorney?

A Lasting Power of Attorney is a legal document that allows you to appoint one or more people, who you know and trust, to make decisions on your behalf (when you are unable to do so) about your welfare, business, money or property, with minimum disruption.

Attorneys can make decisions for you when you no longer wish to or when you lack the mental capacity to do so, thereby ensuring that control of your assets, finances and/or welfare remain with those you trust.

## Why do I need a Lasting Power of Attorney?

When a person loses capacity, the Court of Protection will freeze all of the assets in the vulnerable person's name, together with any joint assets. This means that your spouse or partner will not be able to gain access to any funds in a joint bank account.

It is the Court appointed Deputy who will take control of your finances. Fees will be payable on an ongoing basis.

An LPA (P & FA) will protect your assets for the benefit of yourself and your loved ones, should you lose capacity, whether physical or mental. Your affairs would be dealt with by the attorney(s) of your choice, rather than a Court appoint official.

It is the government appointed deputy who will take control of the finances. Fees will be payable on an ongoing basis.

[www.guardianinheritance.com](http://www.guardianinheritance.com)

## Are there different types of L.P.A?

There are two types of Lasting Power of Attorney:

- Property and Financial Affairs (P &FA) - dealing with your financial matters.
- Health and Welfare (H &W), - dealing with your personal welfare and medical concerns.

\* For those in business, we recommend the preparation of a Lasting Power of Attorney to deal with your business matters.

You may complete one or more of these LPA's and appoint either the same people for all or different people depending on your wishes.

You can appoint as many people as you wish to act on your behalf as your attorney.

A Lasting Power of Attorney cannot be used until it is registered with the Office of the Public Guardian. This can take up to 16 weeks, if there are no problems with your Application.

When a Lasting Power of Attorney is registered, there is a fee of £110, which is payable to the Office of the Public Guardian.

This fee is separate for each document you register with the Office of the Public Guardian.

Lasting Power of Attorney -  
Protection and support whilst you are living

## Who would need a Lasting Power of Attorney?

L.P.A's can be set up for anyone over the age of 18, as long as that person has full capacity.

The majority of Lasting Powers of Attorney are drafted by:

- people who are in their 50s and over
- couples who have joint assets/bank accounts
- engage in hazardous occupations
- members of the armed services
- members of the emergency service
- those who participate in hazardous/extreme pastimes or hobbies
- people with current or genetic medical conditions (as long as they have full mental capacity)
- people with current medical conditions (as long as they have full mental capacity)
- people who have genetic medical conditions



Where there's a Will  
there's a way

## To Trust, or not to Trust? That is the question

### There are several types of trust, each one designed to achieve a different outcome.

Here are some of the most commonly used:-

- Nil rate band trust.
- Discretionary trusts.
- Lifetime trust.
- Pilot trust (often called 'spousal bypass trust')

## What is a Trust?

### There is no legal definition of 'trust'. However, a working definition may be as follows:-

A trust is an obligation binding a person (a 'trustee') to deal with property/assets in a particular way, for the benefit of another person or class of persons (of which he himself may be a member) whose interests (except in Scotland) are protected by the equitable jurisdiction of the courts.

It is vital that all Trusts are prepared with the specific requirements of the client in mind.

Each and every Lifetime Trust and Pilot Trust is drafted by a Barrister and we take care, when instructing Barristers, to ensure that the Trust is drafted taking account of each client's particular circumstances, requirements and wishes.

We pride ourselves on a stress free, easy to understand process, providing our clients with a meticulously drafted document aimed at satisfying their wishes, with clear explanations of how to use the Trust to its full potential.

## Why make a Trust?

Since 9th October 2007, married couples, and couples in a civil partnership, have enjoyed what is known as a 'transferable nil rate band' thereby, in most cases, reducing or eliminating their Inheritance Tax liability when both parties have died. The **Nil rate band trust** achieves the same result for unmarried couples.

**Discretionary trusts** are commonly employed to keep assets out of the names of the intended beneficiaries, whilst not depriving them of access to their inheritance.

**Discretionary trusts** are used, principally, in one or more of the following circumstances:

- Where a beneficiary suffers from a physical or learning disability and, either is in receipt of State benefits, or is likely to be in receipt of State benefits in the future as a result of their condition. State benefits would be reduced or lost should they inherit a substantial sum.
- Where a beneficiary is alcohol or drug dependent and you are concerned that they will misuse their inheritance.
- Where a beneficiary is financially unreliable and you wish to support them.

## Plan now and save!

**Lifetime trusts** may be used to reduce Probate costs and complexities, provide for children from other relationships, protect against creditors or bankruptcy and to guarantee bloodline inheritance or to assist in Sharia compliant estate planning. In addition, the **lifetime trust** may be used to protect your assets after death in the event that your children divorce or die prematurely, leaving the surviving spouse to remarry, thereby potentially diluting your grandchildren's inheritance.

### Lifetime trusts

- Removing/reducing generational IHT
- Lifetime trusts can be set up to protect property, cash or investments and are tailor made to each client's needs and wants
- Lifetime trusts can be passed down through generations for up to 125 years
- They are extremely flexible and allow the settlor full control of all assets within the trust

**Pilot trust** (often called 'spousal bypass trust') is used to manage Inheritance Tax liabilities.

### Pilot trusts

- Similarly to Lifetime trusts, pilot trusts can protect property, cash or investments.
- The assets within the trust all rights & benefits or the assets within the trust.
- Trustees & beneficiaries can be the same people
- Guidance notes can be prepared to outline the settlor's wishes of how the trust is used.

## What does this mean?

Regardless of what definition is deemed most useful, the same meaning is to be applied; that being a trust, when properly drafted and executed, has to be seen as an independent legal entity in its own right. In other words, unlike a Will it has the right to own property, make loans, make payments, decide investments etc.

A good analogy would be to consider a trust as a vehicle similar to a limited company, which has its own legal personality, with a trustee in a similar role and under formal duties like a Director.

Again, unlike a Will, because it has its own legal identity, it exists outside of the life of the individual setting up the trust, with the beneficiaries and trustees being changed, similar to the change of directors or shareholders of a company.



All of our Barrister Intermediaries are members of the Legal Services Guild. Guardian Inheritance Ltd is proud to hold corporate membership of the Guild.

**Guardian Inheritance Ltd** specialises in all aspects of Legacy Planning:

- Will drafting, to identify those who you wish to inherit your estate, when you die and to appoint Guardians where appropriate.
- Lasting Powers of Attorney, to protect your assets whilst you are living, if you lose capacity.
- A range of Trusts, to protect your assets whilst you are living and after your death, as well as if you lose capacity. Each legacy plan is tailor made to specific needs of the client.

Guardian Inheritance is closely affiliated with the London Law Practice



## Guardian Inheritance

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Keeping it  
in the family



Guardian Inheritance

Making sure that your wishes work