

A personal message from Graham Waters, Chief Executive of Keychange

Thank you for enquiring about legacies. I hope that this and the following pages will give you more information about making or changing a Will.

In this country, we are privileged to be able to enjoy many great parks and estates which have been laid out by designers often many years and decades ago. Many of the ideas, not to mention the trees and shrubs never achieved their full grandeur until generations after the designer had passed on. We are fortunate that people of vision were prepared to invest their all for the sake of generations not yet imagined. Like Martin Luther King Jr, they 'had a dream' which only become reality many years after they had died.

At Keychange we also have a dream. We want to be recognised as a leading supplier of holistic Christian care to frail elderly people in residential care.

Together with the management team, the Board of Keychange has made long-term plans for the future of our services. These plans must be matched by income sources that enable our Vision to become reality. Keychange is a registered charity and is non-profit-making, meaning that all our income is used for the provision of services for people for whom we care. We are pleased to be able to provide very high levels of care, but unfortunately restrictions in government spending have meant that we have had to be very prudent in our budget keeping, and offer care which is sometimes without the frills and extras we would like to provide.

Of course, if you are considering leaving a legacy, or are enquiring on behalf of someone who is, planning for the future is vital too. Firstly, anyone would no doubt want to make sure that their family is adequately provided for after their death, but perhaps they might consider leaving a portion of their estate to Keychange as well? There are many opportunities to support Keychange, perhaps for some of those frills and extras that remain dreams without the resources to see them fulfilled.

A gift to Keychange in your Will means that your savings will also help to ensure that our dream becomes a reality in the lives of generations still to come. This small practical pack will help you think through some important issues that you may need to be considering.

Yours sincerely

Graham Waters, CEO Keychange

What happens if I don't make a Will?

Sadly, very few people make a Will – around one in four adults in the UK. Everyone knows it's a good idea, but they just don't get round to doing it. Many people do not like thinking about death and the effects it has on those they leave behind, but it is something that has to be faced eventually. Those of us with Christian faith are assured that death in itself is not something that need be feared.

However, it is much better to face these important issues when not influenced by ill health or other emotional pressure. It is natural that you should wish your property and assets to pass on your death to whomever you choose and these decisions need to be made when you can think clearly about what you really want to happen. By making a Will you can ensure that your assets go to those you wish should have them.

If you are without family and haven't made a Will, all your estate will pass to the Crown. Some people think - quite wrongly – that everything goes to their spouse or civil partner if no Will exists. In fact, if you have children or relatives, only a portion of the estate passes to your spouse. In England and Wales, the residue must be shared with children and other relatives. If you do not make a Will, then the Law, not you, will decide who gets what, and that can be expensive with legal costs being paid from your estate. It can also take a long time - months or even years in some very complex cases.

The amount your spouse or civil partner would inherit depends on how much is in your estate and which of your blood relatives survive you. Assets held in joint names usually pass automatically to the other joint owner and do not form part of your estate. Since February 2009, where there is no Will and there are surviving children and the net estate is over £250,000 only the first £250,000 plus personal possessions pass to the spouse or civil partner. The remainder is shared with surviving blood relatives.¹

Example:

Mr T remarried following his divorce but has two children by his first marriage. He died as the result of a car accident having not re-written his original Will which became invalid on re-marriage. The house in which he and his second wife lived was in his name and was worth £450,000. Because there was no Will, his wife only received £250,000 of his estate and the house had to be sold in order to pay the two children (who were not particularly close to their step mother) their share of the estate.

¹ Half of the rest is shared equally amongst the children. The spouse or civil partner gets the income or interest on the other half during his/her lifetime, and when the spouse or civil partner dies, the capital goes to the deceased's children equally.

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Making a Will now will avoid such distressing scenarios and give you the peace of mind of knowing your affairs are in order. Your next of kin will not be left with added stress at a time when they might already be experiencing much grief.

We know that planning for the future is important to you. It is important to us too. That is why we are taking the opportunity to share this information with you. We believe that having funds secured for the future will help us make long-term plans that could help us deliver a quality service to those who are likely to be dependant upon us for many years to come.

What is a Will?

A Will is a legal document that sets out your instructions for what should happen to your possessions and money after your death. There are some assets that cannot be given away in your Will, such as property you hold in joint names which usually passes automatically to the other joint owner. You will need to appoint 'executors' to handle your estate – friends or family who you can trust to ensure that your wishes are carried out. Your Will can also include any details of what you would like by way of a funeral or whether you wish to leave any organs for transplant or medical research. You should also include arrangements for guardianship of any dependent children.

When should I make a Will?

The sooner the better! If you are married or in a civil partnership or separated, it is especially important. Also, both partners should make separate Wills. Wills are not only for those who are elderly. Anyone over the age of 18 who is of sound mind and who has any significant assets (a house, a car, savings etc.) or any financial responsibilities should have a Will. Getting married, or entering into a civil partnership after your Will is made, will generally revoke (cancel) it unless the Will says it will not. If you divorce after your Will is made, any reference to your former spouse will be treated as if he or she had died on the day that the decree absolute was made. You should seek legal advice in those circumstances.

Writing a Will

You can in theory draw up a Will yourself using a standard form available at stationers, or on the Internet, but home-made Wills can be disastrous if you omit important details. Using a solicitor is by far the safest way of getting it right. Solicitors are bound by law to put their clients' interests first.

Changing a Will

Again, your solicitor can do this quite easily. If you have already made a Will, and would like to make an additional provision for a legacy to be left to Keychange, you may simply want to use the **Codicil Form** included below. **Do**

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not attempt to change your Will by simply altering it or writing on it.

This form has been drawn up with the help of solicitors and is an acceptable legal document. You may revoke your Will at any time, by destroying it, or by making another Will cancelling all previous Wills.

How to Dispose Of an Out-Of-Date Will

The most common scenario in which a Will is destroyed is in the case of marriage. When you become married your previous Will becomes invalid, so it should be destroyed in the process of making a new one. When a Will is not destroyed it is most often because the writer simply forgets to do so, which will lead to confusion about which one is still valid. You can choose to update your Will or change it. However, if you cancel it, you must destroy it.

In order to destroy your Will you must burn it or tear it up with the intention of it being revoked along with all the copies you may own. All of the copies must also be destroyed. If any of them reappear down the line, it may seem like your destruction of the other forms of the Will were accidental. Therefore all copies must be completely destroyed to make sure your current or new Will is valid. The Will that is destroyed is only invalid if you destroy it yourself or it is destroyed in your presence. It is still considered valid if you choose an executor or third party to do it on your behalf or if it is believed to have been destroyed by accident.

If you have hired someone else to write your Will such as a solicitor of professional Will writer and they have a copy of it, you will have to contact them in regard to destroying it - either by yourself or asking them to do it. However, it is recommended that you destroy it yourself to ensure that it becomes invalid.

Who do you want to benefit in your Will?

Make sure you have made adequate provision for any members of your family. If you wish to leave a legacy to Keychange, it is better to leave a percentage share of the residue of your estate rather than a fixed amount (known as pecuniary gifts), which may be worth much less than you intended over a period of time.

Who will be your executors?

It is best to appoint more than one, in case one of them dies before you do. They can be family members or friends, or your solicitor. It is legally acceptable for beneficiaries to be executors. If your children are less than eighteen years of age at the date of your death their inheritance will be held upon trust. In these circumstances it is essential to appoint two executors who will then look after the trust fund during your children's minority. Make sure you have their full names and addresses, and remember to inform them that you would like them to serve in this capacity.

Are there any special items that you want to go to specific people?

You will need exact descriptions of items you may want to leave to specific people.

Guardianship

If you have dependent children, you should appoint someone you (and your children) trust and respect who will be willing to take on the responsibility of bringing up your children if both parents die. This is not an easy decision, and is often put off, but it is one that is better made in the cool light of day, rather than leaving it to others to decide at a time of grief and great sadness. How is their education to be funded? Do you really want your children to get their hands on your money at 18 or would you rather safeguard it a little longer?

These decisions may need to be reviewed periodically, and you should involve your children in the decision making process. This is very important in the case of one-parent families or unmarried parents living together, especially if your child was born before 1st December 2003.²

Power of Attorney

A Will takes effect only when you die. You may also want to appoint someone trustworthy to deal with your welfare, money and property during your lifetime if you become incapable of acting personally, due to illness, accident or simply old age. This can be done by asking your solicitor to prepare a LASTING POWER OF ATTORNEY, the cost of which is very modest indeed, compared with the appointment of a Receiver by the Court of Protection.³

Where should I keep my Will?

Your Will may not be required for many years after you make it so it is essential that it is stored safely and that it can be found after your death.

The main storage providers are:

- Solicitors (a charge may be made)
- Banks (charges apply) **WARNING: do not store your Will in a safety deposit box.** The box can't be opened until Probate is granted and Probate can't be granted without the original Will.

² As from the 1st December 2003 unmarried fathers of children whose birth is registered on or after this date, provided they are named on the birth certificate of the child, also have 'Parental Responsibility'.

³ The new Court of Protection set up under the Mental Capacity Act 2005 came into effect on 1st October 2007 and has powers to handle health and welfare as well as financial affairs where someone lacks capacity. What was formerly known as an Enduring Power of Attorney has been replaced by the Lasting Power of Attorney. For full details see www.guardianship.gov.uk.

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- The Principal Registry of the Family Division (PRFD). You can deposit your Will with the PRFD through any Probate Registry in England and Wales.
- Keep it yourself, but make sure your executors know where to find it.

Donations in memory, instead of flowers

Many people would prefer to see donations made to a favourite charity in lieu of floral tributes at their funeral. If this is stated in your Will, the executors can make your wishes known. Keychange would be pleased to receive such donations as a fitting memoriam to your life.

Inheritance Tax

IHT is currently charged at 40% of any part of your estate that exceeds £329,000. Married couples have always been able to pass on assets to each other free of tax. Welcome changes introduced in October 2007 ensure that husbands and wives living in the UK, or deemed to be living in the UK, can now benefit from each other's unused inheritance tax exemptions. In practice this means that after the death of the first spouse, the surviving partner's combined tax-free allowance could be as much as £650,000, regardless of how long they have been a widow or widower. For those who have never been married the nil-rate band is £329,000.

To reduce your liability to IHT, you can also give away money during your lifetime with the following limitations:

- an outright gift to a charity such as Keychange, with no conditions attached, can be made tax-free;
- gifts of up to £3,000 in any one year can be made to any one individual⁴;
- any number of gifts of up to £250 each year to separate individuals;
- wedding or civil partnership ceremony gifts are exempt from Inheritance Tax up to certain amounts; parents can each give £5,000; grandparents and other relatives can each give £2,500; anyone else can give £1,000;⁵
- larger gifts can be made as 'potentially exempt transfers' (PETs), but have to be genuine gifts with no strings attached. If you die within seven years of making such a gift, tax may be payable on a sliding scale depending on how many of the seven years have already elapsed since the gift was made.

There is also a useful exemption known as 'normal expenditure out of income'. In other words, what the taxman is interested in is simply gifts out of capital.

⁴ You can carry forward all or any part of the £3,000 exemption you don't use to the next year, but no further. This means you could give away up to £6,000 in any one year if you hadn't used any of your exemption from the year before.

⁵ You have to make the gift on or shortly before the date of the wedding or civil partnership ceremony. If it is called off and you still make the gift, this exemption won't apply.

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You should take legal advice before giving away your home if you are continuing to reside there. Regulations exist to cover such scenarios, and there are some major pitfalls to be avoided.

To administer someone's estate you normally need to apply to the Probate Registry for a 'Grant of Letters of Administration'. The grant provides proof to banks, building societies and other organisations that you have authority to access and distribute funds. **If Inheritance Tax is due on the estate some or all of this must be paid before a grant will be issued.** In other words, the taxman will want to take his share of the estate before any other payments to family or others can take place.

One simple way of avoiding the stress of Inheritance Tax is to give a large gift to Keychange either now or as a legacy in your Will. This will leave your dependants with a smaller, but tax-free inheritance.... and the satisfaction that you had invested in something really worth while.

As an added benefit, since April 2012, if you leave 10% of your estate to charity the Inheritance Tax due is reduced to of 36% instead of 40 per cent.

Examples of how Inheritance Tax works:

- 1) Mr and Mrs B had joint assets of £800,000 including a house and shares in the family-run business. When Mr B died, his widow inherited 100% of her husband's share of these assets tax-free. When she died, Mrs B passed on the whole estate to their children. The children had to pay IHT on everything over £650,000, which in their case was calculated as:

$$40\% \times £150,000 = £60,000.$$

If the majority of the estate was tied up in the property, they may have had to sell the house in order to pay this tax. HMRC may not be willing to wait until the house sale is completed before the tax is paid, and may charge interest if the payment is delayed.

- 2) Miss J owns a small house, a life insurance policy, and has some shares which she bought using money from her late mother's estate. She is surprised to learn that the total value of her estate is now £385,000. When she dies, she has left most of her estate to her nephew and nieces but has made provision in her Will to leave a legacy to her favourite charities.

Inheritance tax would normally have been calculated as:

$$40\% \times £60,000 = £24,000$$

But because she left £40,000 to charity the tax due to be paid by her estate was reduced by £16,800.

$$36\% \times £20,000 = £7,200$$

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CODICIL

KEEP THIS CODICIL WITH YOUR WILL

This is the(first/second etc) codicil to the Will dated (date of existing Will)
the.....(day) of.....(month and year) of me (full name)
..... of (full address)
.....
.....

In addition to the pecuniary legacies given by my said Will, I give: (see Note 1 below for options)
.....
.....

free of all taxes and duties to Keychange Charity, 5 St George's Mews, 43 Westminster Bridge Road, London SE1 7JB, Registered Charity 1061344, for its general charitable purposes. I further direct that the receipt of the Chief Executive or other proper officer of Keychange for the time being shall be a full and sufficient discharge for the said legacy.

In all other respects I confirm my said Will.

In witness whereof I have hereunto set my hand this (day).....day
of (month and year)(today's date)

Signature of testator (your signature)

Signed by the above-named as a Codicil to his or her Will dated the (date of existing Will)
.....(day) of(month and year)

in the presence of us both being present at the same time who at his/her request and in his/her presence and in the presence of each other have hereunto subscribed our names as witnesses.

A. Signature.....
Name
Occupation.....
Address.....
.....

B. Signature.....
Name
Occupation.....
Address.....
.....

Note 1.
Use ONE of the following options:

- the sum of £.....(written in full) pounds absolutely
- all the residue of my estate absolutely
- one(quarter, half etc) share of the residue of my estate absolutely

Check list of things to consider before contacting a solicitor

It is worth taking the time to go through this work sheet before you visit your solicitor. It will save your solicitor much time. Make sure you also take with you any previous Will.

1. How much is my estate worth?

List all your assets, together with the current estimated value of each of them.

Property

	£
Homes, holiday homes, and shares in any other property.	_____
Car	_____
Personal effects, furniture, jewellery etc.	_____
Antiques or collections (stamps, coins etc)	_____
Any other assets you own	_____

Savings

Bank accounts	_____
Building societies	_____
Investments (shares, ISAs, etc)	_____
Life insurance policies	_____
Other money owed to you	_____
Total assets	_____

Liabilities (present value)

Mortgage outstanding	_____
Bank overdraft	_____
Maintenance payments	_____
Loans	_____
Credit card debts	_____
Other debts	_____
Total liabilities	_____

Total value of estate _____
(Total assets less Total liabilities)

Other questions you may want to think through.

- Who do I want to help? Make provision for your family and friends first, and ensure you have their names and addresses available.
- Who has made a difference in my life? Which charity or cause is important to me? Make a note of their names, addresses and registered charity number for your solicitor.
- Write down the names and addresses of those you would like to act as Executors and Guardians.

Other questions you may want to ask your solicitor.

- How much will you charge for this Will or Codicil?
- What happens if one of my beneficiaries dies before I do?
- What if one of my executors dies before me?
- Where should I keep my Will?
- Who should have a copy?
- What happens if I marry, remarry or divorce?

We hope you have found these notes helpful in giving you advice about making a Will. We have done so because we want you to be informed, but also, of course, in the hope that you will prayerfully consider remembering the work of Keychange in your Will. If you would like to know anything more about our services, please contact us at:

Keychange Charity, 5 St George's Mews, 43 Westminster Bridge Road, London SE1 7JB

Tel. 0207 633 0533

If you do decide to remember our work in your Will, it would help us in our planning if you were to let us know, in confidence, that you have done so. You are under no obligation to tell us though, and informing us of your intentions is in no way binding upon you or your heirs.

The information in this pack applies to the law of England and Wales only. It is not intended to be legal advice, nor a substitute for seeking appropriate professional advice about the disposal of your assets – you should always consult a solicitor before making any decisions concerning your estate.⁶

⁶ Laws and tax regulations are frequently being revised. The information given in this guide was correct at the time of publication. Keychange cannot be held responsible for any inaccuracies contained in this pack.

Some legal terms explained:

Administration period: the period between the date of death and the date of the close of administration.

Administrator: a person who deals with the winding up of an estate if there is no Will.

Appropriation: the transfer of an asset instead of its sale proceeds, on account of a legacy.

Attorney: a person appointed to act on behalf of another.

Bequest: a gift of chattels or assets by Will.

Codicil: a legal document by which a person amends his/her Will.

Contingent Gift: a gift conditional on the happening of an event, e.g. the beneficiary reaching the age of 21.

Covenant: a legally binding obligation contained in a deed.

Deed of Variation: document changing the Will of a deceased person.

Executor: a person appointed by a Will or codicil to wind up the estate.

Guardian: person appointed to protect the interests of a minor.

Intestacy: where a person dies without making a Will.

Issue: children, grandchildren and other remoter descendants.

Nil-Rate Band: amount of the inheritance tax threshold chargeable at nil %.

Pecuniary: of money or cash.

Power of Attorney: formal deed by which one person appoints another to act on his/her behalf.

Probate: court order authorising a person to deal with a deceased's assets.

Testate: dying leaving a Will.

Trustee: a person who is holding assets on trust.

Vested Interest: the right to immediate or future entitlement.