

Skipton Will Writing Service for Intermediaries

# Will Writing Guide

The simple, straightforward way  
to make your wishes known –  
from just £95<sup>+VAT</sup>

# The easy way to make your wishes known – from just £95<sup>+VAT</sup>

This guide explains:

- **Why making a will is so important and what happens if you don't have one**
- **The types of will you can make and the differences between them**
- **How Inheritance Tax planning can help you reduce your estate's tax liability on your death**
- **How our Will Writing Service works and what to do next.**

Our Will Writing Service is offered through our wholly owned subsidiary Skipton Trustees Limited, who work in conjunction with a reputable legal firm.

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# Why you should have a will

Many people die without making a will, which can cause real problems for loved ones because the deceased's true wishes are unknown.

If you die without a will, you are deemed to have died 'intestate' and the law – rather than you – decides who inherits your estate.

## If you leave a will, you can:

- **Decide how much money is left to each of your family members**
- **Specify who will become the guardians of your children**
- **Pass your estate to an unmarried partner**
- **Choose who you want to be the executor of your will**
- **Leave something to charity**
- **Give a memento, like a piece of jewellery, to a treasured friend.**

## A will is important if:

### **You are married**

Many married people believe that on their death, all their assets will automatically pass to their spouse. In fact, depending on the size of the estate, if there are children the spouse may only inherit personal items and the first £250,000. The rest of the estate may not pass to their spouse, children or other relatives as you might expect.

If there are no children, the spouse could receive personal items and the first £450,000 and other surviving close relatives may benefit from the remainder (this applies to England, Wales and Northern Ireland; different provisions apply in Scotland).

### **You have a civil partnership**

A registered civil partnership between same sex couples is similar to a marriage and the usual intestacy rules apply. Therefore it is very important that couples in a civil partnership write a will.

### **You live with a partner**

Contrary to popular belief, an unmarried partner or non-civil partner has no automatic right of inheritance at all. A will is the only way to make sure your partner is left what you want them to receive.

### **You have children**

A will allows you to say who you wish to be the guardians of your children – otherwise the Courts decide.

### **You are single**

If you don't have a will, your family or dependants may need to challenge the intestacy rules, which may cost them a considerable amount of money in solicitor's fees to obtain the possessions you want them to inherit.

# Your will options in detail

There are a range of different wills and other legal arrangements, from a single will for a single person leaving their estate to a family member, to more intricate wills designed to protect assets or minimise tax liability – we can recommend the right solution for you as part of our service. The following wills can be arranged quickly and easily, with the minimum of fuss.

## **Single will**

Suitable for single people, this will allows you to ensure that the right people receive the things you want to leave them. It has no Inheritance Tax benefits, unless you plan to leave your estate to charity.

## **Mirror will**

Ideal for married couples or registered civil partners who wish to leave all their assets to each other.

For deaths occurring after Tuesday 9 October 2007, changes have been made to Inheritance Tax legislation.

The effect of the legislation is that it enables any unused nil rate band available on the death of the first spouse or civil partner to be claimed by the survivor's executors on the second death, regardless of the date on which the first spouse or civil partner died.

## **Discretionary Will Trusts**

Prior to the pre Budget announcement, discretionary will trusts would have normally been recommended to reduce or eliminate inheritance tax, where joint estates exceeded the current nil rate band threshold of £650,000.

Although the changes in inheritance tax legislation suggests that discretionary will trusts may no longer be required for Inheritance Tax savings, there are still many other advantages to having wills drawn up in this way, which are:

- Unmarried or cohabiting couples can transfer assets up to the value of the nil rate band into trust on first death, thereby reducing the Inheritance Tax liability for the surviving party's estate.
- By not passing all your assets to your spouse on your death, you can potentially reduce the amount of future care costs that may be payable should your surviving spouse need to go into care.
- A trust can provide a layer of protection for your children following your death, ensuring that they benefit from your assets in the event of the surviving spouse re-marrying.
- Trustees choose who can benefit from the assets placed into a discretionary trust. Therefore if you want to ensure that your children cannot access these assets until they are old enough, a trust is a great way to maintain control.

- If as a married couple both of you die and your childrens' estates are over the nil rate band at the time, the existence of a trust provides your children with an opportunity to pass on the benefits to their children (ie your grandchildren). This reduces your childrens' Inheritance Tax liability on their estates and would be more difficult to do should your wills not be prepared to include trusts in the first instance.
- If the assets placed in the trust upon first death increase in value more quickly than the rate at which the Inheritance Tax threshold increases, then potentially more of an Inheritance Tax saving can be made by having the trust set up on the first death.

There are no guarantees that the Inheritance Tax situation will not change again. If you include discretionary trusts in your will, upon your death, the trustees can decide whether it is beneficial to create the trust or not. Should they not be included within your will, it will be difficult for your beneficiaries to create a trust at this stage.

There are **no** disadvantages to making a will which contains discretionary trusts. If it is clear that the trusts are no longer required to save Inheritance Tax, following the death of the first spouse then the Trustees have the power to terminate the trust by exercising their discretion to give the nil rate band assets to the surviving spouse. You therefore need to choose Trustees who have the technical knowledge and ability to do this.

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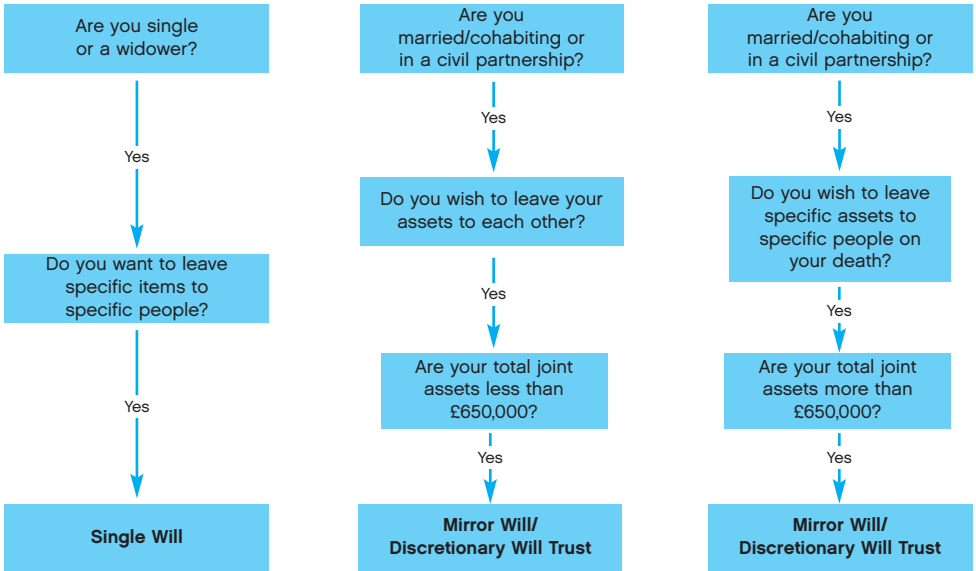
### **Who should you choose as Trustee?**

We would always recommend that you choose a professional Trustee. Skipton Trustees Limited provide a professional and impartial service. They have the technical knowledge and expertise in the management and administration of trusts. You also have the reassurance of knowing that as part of the Skipton Building Society Group, you are dealing with a name you can trust.

See page 11 for more details...

# Choosing the right type of will

The chart below may help you decide which type of will is most appropriate to your circumstances.



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## More specialist arrangements

The following arrangements are also available through our Will Writing Service, however because they are more complex, you may also need to see an adviser.

### Spousal Bypass Trust

If you are working, your company pension scheme may have valuable lump sum death benefits. If you die now, these will probably be paid directly to your spouse/civil partner – increasing the eventual Inheritance Tax liability on their death. A Spousal Bypass Trust means your benefits are paid into a trust, allowing your spouse/civil partner full access but not increasing the value of his/her estate from an Inheritance Tax perspective.

### Deed of Variation

Deeds of Variation can be used to vary the terms of an existing will. For example, if you feel a family member has been missed out or a trust should have been created to protect a valuable asset. Also for some estates it may be possible to save Inheritance Tax. There is a limit of two years from the date of death to take advantage of this arrangement.

### **Powers of Attorney (only applicable in England and Wales)**

Many people worry about how their financial affairs can be managed should they leave the country on an extended holiday, are housebound, become ill or mentally incapable. If you believe one of these circumstances may affect you, you should consider arranging a Power of Attorney.

Two types of Power of Attorney are available through our service:

- **Lasting Power of Attorney for Property and Affairs** – enables you to appoint someone to deal with your financial affairs and property and this continues in the event that you lose the mental capacity to do so.
- **General Power of Attorney** - enables you to appoint someone to deal with your property and affairs whilst you are still capable. This is the perfect solution if you were on holiday, ill or were housebound. It does not continue in the event of mental incapacity.

For further details please see the enclosed Guidance Notes and Application Forms.

### **Severance of Joint Tenancy**

Depending upon the value of your property, it may be possible to use it as a means of Discretionary Trust planning. This may require a change in the joint ownership of your property, so you and your partner no longer own your whole property together, but own one half each. Your home will no longer automatically pass to the other spouse on death. This is particularly important if you are using discretionary trust wills for non-tax related benefits eg protection from future costs/protecting your assets for your children if your spouse remarries.

# Things you need to consider

## Your estate

You need to consider the current value of your assets and your spouse/partner/civil partner's assets, such as:

- **Main place of residence and any other property or land**
- **Business and foreign assets**
- **Building society and bank accounts**
- **Investments (eg ISAs/PEPs, Investment Bonds, Unit Trusts), life assurance/insurance policies.**

## Who'll be your executor

Executors are the people you choose to carry out your wishes after you die. It is important you choose people you can trust – who are able to deal with the responsibilities of administering an estate. Some of their duties include:

- **Obtaining details of all assets and debts**
- **Preparing Probate papers**
- **Calculating and paying Inheritance Tax to HM Revenue and Customs**
- **Paying all debts**
- **Arranging house sales and disposal of contents**
- **Distributing the assets in line with the terms of the will.**

You can nominate Skipton Trustees Limited to be, either one of your executors, or your sole executor. Not only do they have the technical knowledge and a professional, unbiased approach, but they will also be able to relieve those you love of this great responsibility.

By choosing Skipton Trustees Limited as an executor, your beneficiaries will have the reassurance that the work carried out is at a fixed price, there are no hidden charges and it is not charged for by the hour. Please see the Tariff of Charges for our current fees.

If you have been asked to administer an estate, Skipton Trustees Limited can also help you – visit your Intermediary Sales Manager for details or call 0800 87 66 010\*.

## Storing your will

It's important that your will is kept somewhere safe. As part of our Will Writing Service, we can arrange for your will to be stored in Skipton's vault free of charge. You will, of course, receive a copy for reference, but you will have the comfort of knowing that the original is safe and secure.

You can access your will free of charge at any time should you wish to make amendments through our Will Writing Service. However, if your will is to be amended or stored by another firm or solicitor, a retrieval fee is payable.

## Does your will need updating?

If your circumstances have changed you may need to update your will to reflect this. Remarriage and the dissolution of a civil partnership are just a few examples of events that may cause your will to be nullified. There may be other events, such as divorce, which mean you may want to change your will. Even if there has been no apparent change in your circumstances we would recommend a review of your will every five years in case of changes in tax rules or other legislation.

We can help you update an existing will if your circumstances have changed. Just visit your Intermediary Sales Manager or call 0800 87 66 010\*.

# Reducing Inheritance Tax

As well as drawing up the right type of will for you, our Will Writing Service can also help with Inheritance Tax planning.

You may feel that due to the current Inheritance Tax rules your estate may no longer be affected. Don't take this for granted, get it checked out, especially as the law or your circumstances may change.

# How long will it take?

We have developed an efficient and streamlined Will Writing Service and as long as all your details are completed on the relevant Forms, most wills or other documents can be prepared within two weeks.

## What to do next...

Our Will Writing Service gives you the choice of how you wish to set up your will. You can:

- **Contact your Intermediary Sales Manager (ISM) for help completing the Instruction Form(s)**
- **Complete the simple Instruction Form(s) and return to us in the Freepost envelope provided by your ISM**

**If you have any queries regarding the Skipton Will Writing Service please call 08709 002180\* or ask your ISM.**

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Once we have received your completed Forms, Skipton Trustees Limited will call you to obtain any additional information which will help them gain a better understanding of your circumstances.

# Skipton's Estate and Trust Administration Guide

## Dealing with someone's affairs when they die can be very confusing and distressing

There are procedures that need to be followed in order for a will to be proved and an estate to be dealt with and ultimately distributed to the beneficiaries.

Being an Executor (also known as a Personal Representative) carries responsibilities. Do you have the financial expertise to be able to organise assets, calculate Inheritance Tax and any other appropriate taxes and distribute an estate correctly? Skipton Trustees Limited offer a specialist and unbiased service to help you through what is already a very difficult time.

## How can Skipton Trustees Limited help?

We can help you by:

**Acting as a sole Executor**, dealing with the estate on behalf of the beneficiaries.

**Acting as a joint Executor** with any other people named in the will who have been nominated to deal with the deceased's estate.

In order for us to act as your Executor, you would need to appoint us within your will. Please see page 8 for more details.

**Acting as a professional adviser to the Executor**, taking responsibility for administering and distributing the deceased's estate with full and ongoing agreement with the Executor(s).

Also if someone dies 'intestate' it means that they have not made a will indicating who is to receive their estate. We can also help you administer the estate of someone who dies intestate. (Make sure you don't leave yourself in the situation of not having a will. Ask your Intermediary Sales Manager for details or call 0800 87 66 010\*.)

The fee for estate administration is dependent upon the complexity of the estate and is calculated on an individual basis. See the current Tariff of Charges for further details and a list of potential disbursements.

## What does an Executor do?

Firstly it may be necessary for an Executor to register the death with the Registrar of Births, Deaths and Marriages and organise the funeral if there isn't a family member able to do so.

It will then be necessary to deal with the deceased's estate (their money and property) and ensure that it is distributed correctly to beneficiaries (the people who are legally entitled to it).

The Executor needs to make an exhaustive list of all the assets and liabilities of the estate and ascertain the value of the estate at the date of death.

This task may be very time consuming and complicated. If there are assets abroad, then there may be further complications as these may be governed by the law of the country in which they are based, rather than a UK will or UK law.

The valuation must accurately reflect the value of the assets on the open market at the date of death and must also include the value of any assets previously given away up to seven years prior to the death. The assets may include, for example:

- all property including antiques, jewellery and works of art
- bank, building society and savings accounts / certificates
- stocks and shares
- insurance policies

Then liabilities need to be identified and deducted from the value of the estate. The liabilities may include, for example:

- utility bills
- other unpaid bills
- 12 • outstanding mortgage
- credit card and store card balances
- loans and other formal debts

## Payments of tax

Once all the estate information has been gathered together, the Executor needs to produce an HM Revenue and Customs account which identifies whether any Inheritance (IHT) and/or Capital Gains Tax is payable. Failure to submit an accurate account to HM Revenue and Customs may leave the Executor open to personal liability for a penalty.

It may be possible to reduce or even eliminate Inheritance Tax on an existing will through a Deed of Variation, which would not restrict access to the money. One of our professional financial advisers could arrange this for you, providing the Deed of Variation was completed within two years of the date of death.

It is then the Executors' responsibility to raise sufficient funds to pay the Inheritance Tax due within six months from the date of death. Until all or part of the IHT is paid, the Executor cannot obtain and distribute the estate. If a short term loan is required to pay the IHT, Skipton Trustees Limited may be able to help.†

## Applying for a Grant of Probate

The Executor(s) need to apply for a Grant of Probate, which is the legal document which gives the Executor the authority to deal with the deceased person's estate.

A Grant of Probate is almost always needed when the person who dies leaves one or more of the following:

- an estate worth more than £5,000
- stocks or shares
- certain insurance policies
- property or land held in their own name or as 'tenants in common'

The Grant of Probate is used to show organisations that the Executors have the legal right to access funds, sell, transfer assets and discharge debts.

## What happens next?

Once the Grant of Probate has been obtained the estate can be organised and distributed. The estate can only be distributed once there are no further bills or claims to be paid. It is therefore important to manage the beneficiaries' expectations in terms of the amount they are due to receive and when they'll receive it.

### If a property needs to be sold

If any property is to be sold, Skipton Trustees Limited can help through Connells Residential (a wholly owned subsidiary of Skipton Building Society) an estate agency group who are experts in managing property assets.

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## Establishing and managing trusts

Trusts are an arrangement under which money or other assets are held and managed on behalf of a beneficiary. Different types of trusts can be created to accomplish specific goals offering varying degrees of flexibility and control.

For example, trusts can be used to provide personal and financial safeguards for family and other beneficiaries; postpone or avoid unnecessary taxes; or establish a means of controlling or administering property and can be established when they are required under the terms of an existing will.

Skipton Trustees Limited can help you in setting up and administering all types of trusts.

The trusts' performance would be monitored and advice provided on the assets held within it, to ensure that it is fully tax efficient.\*\*

## Your next steps

To find out more or to see how Skipton Trustees Limited can help you please call and speak to your Intermediary Sales Manager on **0800 87 66 010\***

\*Terms and conditions apply.

\*\* Only in instances where Skipton Trustees Limited are named as Executor.

# The easy way to make your wishes known – from just £95<sup>+VAT</sup>

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- **How Inheritance Tax planning can help you reduce your estate's tax liability on your death**
- **How our Will Writing Service works and what to do next.**

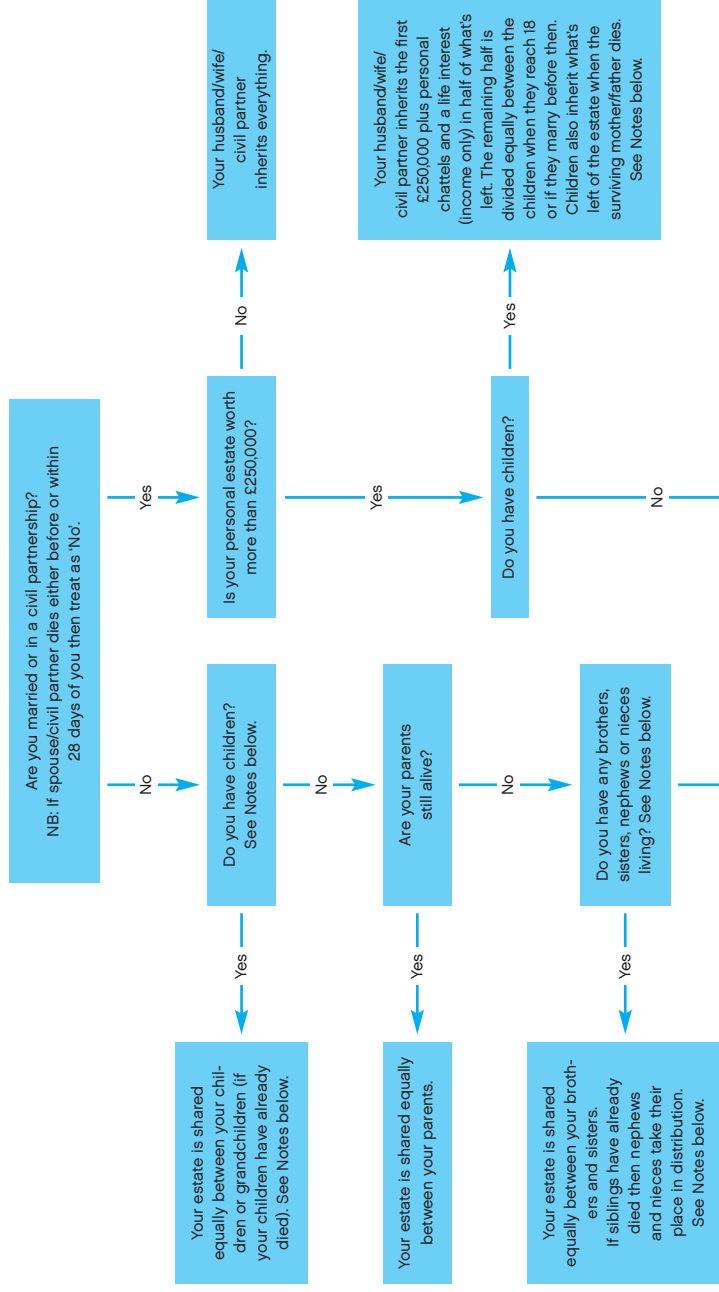
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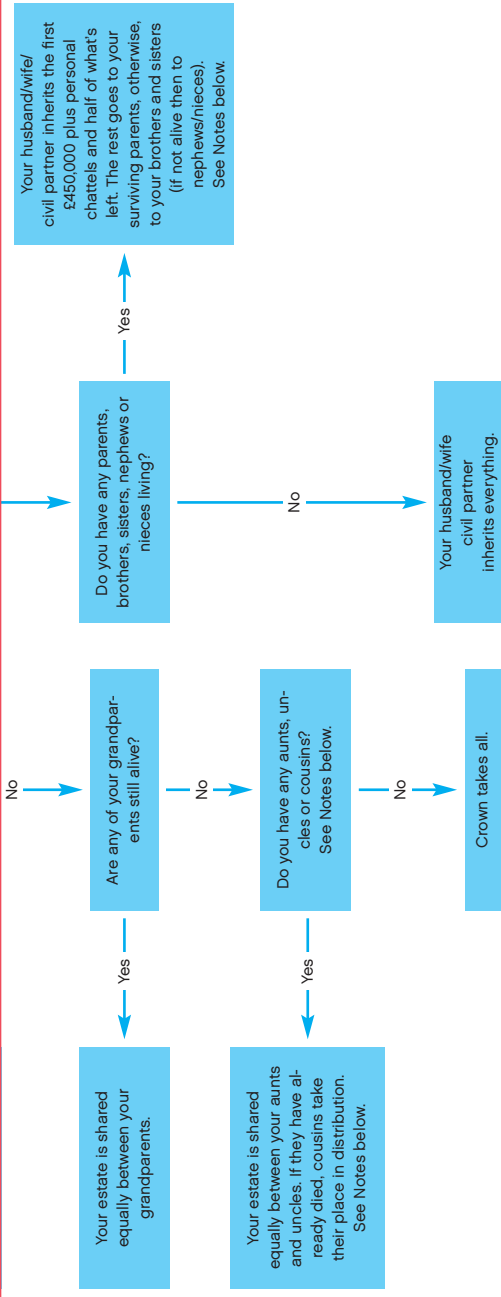
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# What happens if you die without a will?





**Notes:**

1. Members of younger generations are entitled to inherit their parents share if the parent has already died.
2. This flow-chart applies only to people living in England or Wales at the time of death. It is intended as a brief guide, not a definitive summary of intestacy law. For example, it does not cover half-blood relationships, as intestacy rules do not cover them. It is based on our understanding of the Law at December 2005.
3. The term 'children' includes illegitimate and adopted children but not step-children (unless legally adopted).
4. 'Personal chattels' is defined by law and generally speaking means personal items such as cars, jewellery and other household goods. It does not include, for example, houses, land bank accounts, investments and businesses.
5. Joint property generally passes to the surviving joint holder, independently of the intestacy rules, but this is not always the case.

Principal Office, The Bailey,  
Skipton, North Yorkshire BD23 1DN  
Telephone: 0800 87 66 010\*

intermediaries**matter**



Skipton Building Society is a member of the Building Societies Association.

Authorised and regulated by the Financial Services Authority under registration number 153706.

\*To help maintain service and quality, some telephone calls may be recorded and monitored.

Skipton Will Writing Service is provided by Skipton Trustees Limited. Skipton Trustees Limited registered office is situated at The Bailey, Skipton, North Yorkshire BD23 1DN. Registered in England no. 6258324. Skipton Will Writing Service is administered by Irwin Mitchell LLP of Riverside East, 2 Millsands, Sheffield S3 8DT which is a limited liability partnership registered in England and Wales, company number OC343897. Other than in Scotland, Irwin Mitchell is regulated by the Solicitors Regulation Authority, registration number 51747. Skipton Estate and Trust Administration Service is administered by Pearson Jones plc of Clayton Wood Close, West Park Ring Road, Leeds LS16 6QE or Irwin Mitchell.