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Making a will

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What we will cover

- Why make a will and what happens without one.
- Providing for family, dependants and charitable gifts.
- Trusts, inheritance tax and planning ahead.
- Practical next steps and useful websites.



General information only. This handout is not a substitute for individual legal or tax advice.

Why make a will?

01

Choose who receives your assets after your death.

02

Appoint people you trust to administer your estate.

03

Plan for children and dependants.

04

Leave particular possessions to chosen people.

05

Reduce uncertainty and the risk of disputes.

06

Consider tax planning and charitable gifts.

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Key terms

- **Testator:** the person making the will.
- **Estate:** assets and possessions at death.
- **Executor:** the person who administers the estate.
- **Trustee:** someone who manages assets held on trust.
- **Testamentary guardian:** a person nominated in relation to the care of minor children.
- **Beneficiary:** a person or organisation receiving a gift.
- **Residue:** the estate remaining after other provisions have been dealt with.

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Without a valid will

- Dying without a valid will is called dying intestate.
- After debts are paid, fixed legal rules determine who inherits, not necessarily your wishes.
- An unmarried partner has no automatic inheritance entitlement.
- Making a will helps you plan rather than leaving distribution entirely to those rules.



Intestacy: a simplified overview

- Spouse or civil partner, no children: the entire estate passes to the spouse or civil partner.
- Spouse or civil partner and children: two-thirds passes to the spouse or civil partner; one-third to the children.
- Children, no spouse or civil partner: the estate is divided equally among the children.
- Other family circumstances follow further statutory rules. Ask your solicitor how these apply to you.

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Prepare for your solicitor's appointment

- List your assets, approximate values and debts.
- Note what is owned solely, jointly or outside Ireland.
- Include property, savings, shares, pensions and life policies.
- Bring relevant marriage, separation or divorce documents.
- Identify dependants and any additional support needs.
- Flag business, farming, overseas assets or potential family disputes.

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What should your will deal with?

- The revocation of earlier wills, coordinated with any overseas will.
- Executors and substitutes, plus trustees and guardians where appropriate.
- Clearly identified beneficiaries and gifts.
- A residuary clause covering the remaining estate.
- What happens if a beneficiary dies before you.



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Choose the right people

- Choose executors who are willing, suitable and able to work together.
- Consider age, location, financial skills and substitute appointments.
- An executor can also be a beneficiary but should not witness a will under which they receive a gift.
- Discuss professional fees where a professional executor or trustee is appointed.
- Tell those chosen and explain where the original will is kept.

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Children and dependants

- Consider trustees to manage assets for young children.
- Discuss the age and conditions at which children should receive their inheritance.
- Consider a testamentary guardian and a substitute.
- Speak with proposed guardians before naming them.
- Discuss any disability, additional support needs or blended-family circumstances with your solicitor.

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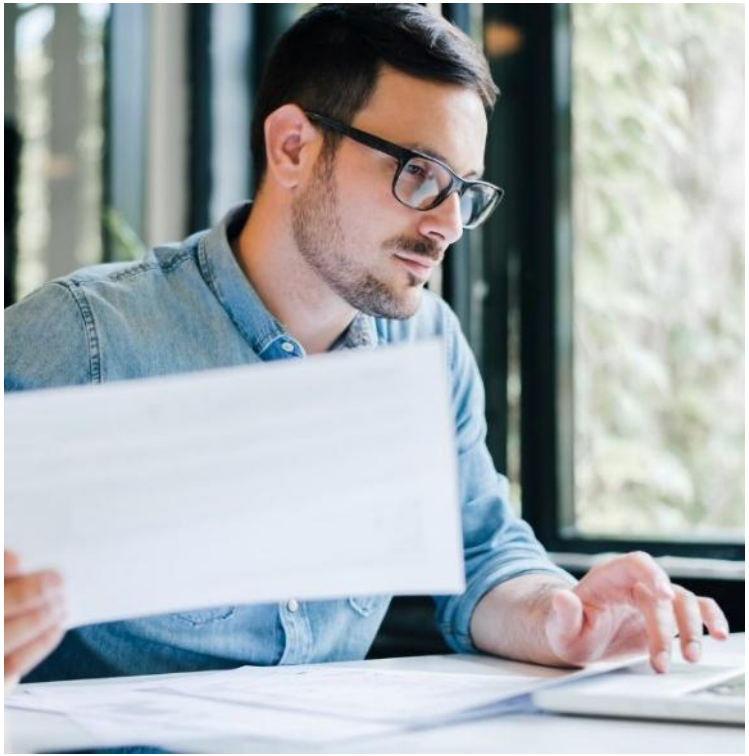
Family rights affect your choices

- Spouse or civil partner: the legal right share is generally one-third where there are children and one-half where there are no children.
- Children: no equivalent fixed share, but a child may seek court provision under section 117.
- Unmarried partner: no automatic inheritance entitlement; a dependent qualified cohabitant may be able to seek court provision.
- Bring any relevant separation agreement or court order to your solicitor.

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Situations needing extra care

- Overseas property and coordination between wills.
- Business or farming assets.
- Second families and children from different relationships.
- Joint ownership: joint tenancy and tenancy in common have different consequences.
- Joint accounts opened only for convenience.
- Lifetime gifts and their legal and tax effects.
- Clear descriptions of property, beneficiaries and charities.



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Capacity

- You must understand the nature of making a will, your assets and the people whose claims you should consider.
- Raise any condition affecting understanding or decision-making with your solicitor early; medical input may assist.



Trusts: choosing the right arrangement

- Trustees hold and manage assets for beneficiaries.
- Bare trust: assets belong to the beneficiary but are held by a trustee.
- Fixed trust: the terms specify who benefits and what they receive.
- Discretionary trust: trustees choose how and when people within a defined group benefit.
- Life interest trust: one person benefits during life; assets pass to another afterwards.
- A trust created by a will takes effect on death.

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Inheritance tax: the essentials

- Capital Acquisitions Tax (CAT) applies to gifts and inheritances.
- The tax-free threshold depends on the relationship between the giver and recipient.
- Relevant earlier gifts and inheritances in the same group reduce the available threshold.
- CAT is charged at 33% on the taxable amount above the available threshold.
- Gifts and inheritances between spouses or civil partners are exempt.
- Check Revenue for the threshold and rules applicable to the date of the benefit.

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CAT relationship groups

- **Group A:** generally, children receiving from a parent; certain other cases qualify. Threshold €420,000
- **Group B:** generally, siblings, nieces, nephews, grandparents and grandchildren, subject to exceptions. Threshold €44,000
- **Group C:** relationships outside Groups A and B. €22,000
- Special rules may change the group in particular circumstances.



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Tax reliefs and planning options

- Ask whether agricultural relief, business relief, favourite niece or nephew relief, or the dwelling-house exemption may apply.
- Each has conditions: a family home, farm or business is not automatically tax-free.
- The annual small gift exemption allows gifts of up to €3,000 from one person in a calendar year; it does not apply to inheritances.
- A qualifying section 72 insurance policy may help fund inheritance tax.
- Trusts are not automatically tax-saving and discretionary trusts may attract separate tax charges.
- Take individual legal and tax advice before transferring assets.

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Planning ahead during your lifetime

- A will deals with what happens after death.
- An Enduring Power of Attorney (EPA) allows you to choose a trusted person to make specified decisions if you lose capacity in the future.
- An EPA is made and registered through the Decision Support Service.
- Discuss suitable attorneys, substitutes and the scope of their authority with your solicitor.
- Consider an EPA alongside your will.

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Other decision-support arrangements

- **Decision-making assistance:** help to gather and understand information while you make your own decisions.
- **Co-decision-making:** specified decisions made jointly with a chosen person under a registered agreement.
- **Decision-making representative:** a court-appointed representative for specified decisions where necessary.
- **Advance Healthcare Directive:** records treatment decisions for a time when you cannot make or communicate them; discuss this with your doctor.
- The appropriate arrangement depends on your individual needs.

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The executor's role

- Identify and protect the estate's assets.
- Identify beneficiaries, debts and other liabilities.
- Apply for a Grant of Probate where required.
- Deal with estate debts, taxes and clearances.
- Distribute the remaining assets under the will.
- The role carries ongoing responsibilities; professional assistance may be useful.
- A will becomes publicly accessible once the grant issues.



Leaving a legacy to University of Galway

- A gift in your will can support the University's work for future generations.
- Options include a fixed sum, a particular asset or a share of the residue.
- Consider your family's needs first and review your wishes as circumstances change.
- Discuss the wording with your solicitor and the University's legacy or development team.
- Ask the University about a specific purpose for your gift and the 1845 Legacy Circle.

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Your next steps

- Arrange an appointment with a solicitor.
- Prepare your asset list and relevant family documents.
- Choose executors and consider trustees and guardians.
- Discuss an EPA and an Advance Healthcare Directive.
- Ask about tax advice and charitable gifts where relevant.
- Keep the original will safely and tell your executor where it is stored.
- Review at least every five years and after major family or financial changes.
- Marriage or civil partnership generally revokes an earlier will unless made in contemplation of it.

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Useful websites:

Citizens Information: Making a will
https://www.citizensinformation.ie/en/death/before-a-death/making-a-will

Information on making a will, including a personal possessions list.

https://www.citizensinformation.ie/en/money-and-tax/tax/capital-taxes/capital-acquisitions-tax

Law Society of Ireland: RIP.ie partnership information
https://www.lawsociety.ie/news/rip-partnership

Decision Support Service
https://www.decisionsupportservice.ie/

Revenue: Gifts and inheritance
https://www.revenue.ie/en/gains-gifts-and-inheritance/index.aspx

Irish Hospice Foundation

https://hospicefoundation.ie/i-need-help/i-want-to-think-ahead/get-my-think-ahead-planning-pack

Check current rules and seek advice specific to your circumstances.

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Thank you

Make a will. Plan ahead. Review regularly.
Keep this handout for reference and bring your questions about your own circumstances to your solicitor.

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