

Kith & Kin's Wills Guide

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Practical Guidance on Making a Will



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Information & guidance

you need to care for your loved ones and to love your later life.

We're Kith & Kin Law Corporation and our mission is to enable people to care for their loved ones, and to enjoy their later life.

We are **passionate** in supporting you to create **clarity** and **meaning** out of your money and other possessions and to affirm that your **later years can be fulfilling years**. Whether you're married or not, just entering the workforce or in your later years, we're here to help **make the best of your life and your loved ones' lives**.

This guide contains general guidance only. Please not rely on it as a basis for decisions or action. It is not a substitute for professional legal advice. Neither we nor any of our directors or employees accept any liability arising from its use. It is your sole responsibility to ensure any information in it is up-to-date and appropriate to your specific circumstances. ©Kith & Kin Law Corporation 2019-2021

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Contents

Topic	Page
What this guide is about	4
Why is it important to make a will?	5
How to make your will	7
Leaving a legacy gift	13
When and how to change your will	15
Important documents relating to your will	16
When to seek specialist legal advice	17
Our Services	20

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What this Guide is About

If you have someone or a cause you care about or have benefited from, you should make a **will**.

Making a will is usually **quick, easy** and **inexpensive**. We made this guide to help you make a will, and we trust that the information you learn from it will help you with the process.

Your estate is everything you own, including cash, property, investments, and even your car and pet. When you pass away, the estate you leave behind can have a big impact on your loved ones and community.

Whether it is a positive or negative impact depends on your estate plan (or lack of one) and whether it was well made.

This guide outlines:

- the **importance** and **benefits** of making a will
- how to make a will
- how to leave a **positive impact** on your loved ones and the community through your will and other tools
- some of the other legal documents that are important
- when and how you should change or update your will
- when you or your loved ones should absolutely seek professional legal advice

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Why it is important to make a will?



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Why is it important to make a will?

A will lets you clarify how your estate is to be distributed on your death. This helps save your loved ones much money, time and worry.

- **Care for loved ones** – A will helps ensure that your wealth only goes to causes and people you care about. This is very important if:
 - **someone you love depends on you financially** - they may not receive anything on your death if you do not have a will. For e.g., your elderly parents will not receive anything from your estate if you are married with children. If you aren't married to your life partner, they will also not benefit from your estate
 - **you have young or vulnerable dependents** - if you have a young child or a child or sibling with special needs, they won't be able to handle their inheritance and are vulnerable to exploitation. A will lets you create arrangements to protect them
- **Minimising family disputes** – Relying on intestacy rules (these apply when there is no will) or a badly-done will can cause fights and unhappiness among family members. By making your wishes clear, and even explaining your reasons for why your will is the way it is, you can help save your loved ones from anger, hurt and stress.
- **Provide for future generations** – A well-designed will can be used to protect and keep your assets within the family – regenerate more assets - and pass them down to your future generations.
- **Deriving meaning from your wealth** – Many people donate to a charity that has helped them or a loved one, or which promotes causes they believe in, through their will. This helps unlock meaning from your wealth and lets you leave a powerful legacy.

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How to make your will?

There are just **4 steps** to making a will – **Think, Talk, Sign & Store.**

- **Think** of Who, What, When and How

Who among your loved ones will get **what** or which of your assets, and **when** will they get those assets after you pass away? Will they receive immediately or at a later date? **How** will they receive their gifts - in a lump-sum or in smaller sums over a period of time? Also, **who** among your family and friends do you trust to make sure the instructions in your will is going to be carried out?

- **Talk** to a lawyer who specialises in wills and trusts, and who charges fees in a clear and reasonable way, to get advice on how your estate plan and will should be designed.

Why not use DIY websites or non-lawyers? Would you use a part-time amateur or D-I-Y approach to extract a tooth, remove a cataract or deliver a child? So, why do so with your final and most powerful message to your loved ones on what you think of them?

- **Sign** the will that has been prepared by your lawyer, in the right way and before two witnesses, who should not be beneficiaries or spouses of the beneficiaries of your will.
- **Store** the will in a secure location and let your executors know where it is. Lawyers will usually store a digital copy for free and help register information on it with the Wills Registry if needed. Do not store it with a bank's safe deposit service, and be wary of "will custody" services. These are often middlemen charging a high mark-up to store your will with a storage services firm.

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How to make your will?

There are just 4 steps to making a will - Think, Talk, Sign & Store. **Think** of who will get what asset and when, and how, and who do you trust to carry out your wishes. **Talk** to a lawyer who specialises in wills and trusts, and who charges fees in a clear and reasonable way. **Sign** the will in the right way and before two witnesses. **Store** the will in a secure location and let your executors know where it is.

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How to make your will? ... continued

Who are the Beneficiaries Executors & Trustees and Guardians?

- **Beneficiaries** – Which loved ones do you want to give your assets to when you pass on? Besides family members and close friends, do consider charities that have benefited you or a loved one.

Also, think of what happens if a beneficiary passes away before you? If you have a vulnerable beneficiary, like a person with special needs, or who is financially unwise, we suggest having a trust in your will so that funds are managed on their behalf and over the longer term.

- **Executors & Trustees** – Executors are the people you appoint to administer your estate after you die. Their role is to ensure that the terms of your will are carried out, including collecting in assets, paying off debts, and distributing your estate based on your will.

They can be chosen from among your beneficiaries. If you have any unwise or vulnerable beneficiaries, you should appoint trustees in your will to manage funds for them. Executors can also be trustees. Trustworthy family members or close friends, and professional advisers, are a natural choice. Aim to appoint at least two executors and trustees, or a main executor and trustee and a substitute one.

- **Guardians** – If you have a child under 21 years in age, especially a young one, you can name a guardian to be legally responsible for and to care for him or her if you and the other parent pass away.

This should be someone who knows and cares for your child, and who is suitable in terms of family and financial situation, character and trustworthiness.

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How to make your will? ... continued

What assets are you giving away through your will?

- **What assets can your will cover** – You can use your will to distribute most assets, including cash, property, life insurance proceeds, investments, jewellery, and vehicles.

However, some assets cannot be dealt with by a will, and these include CPF monies, monies in a bank account held with another person, property you own with another person as a 'joint tenant', and proceeds of nominated life insurance policies.

- **How will your debts be cleared** – What you owe must still be paid even if you pass away, whether credit card bills, mortgages, car loans, or personal loans. So, please ensure that there will be enough funds to pay off your debts, so you will have something to leave behind to your beneficiaries.

You can look at life insurance as a solution. On your death, the insurer pays out money that can be used to pay off your debts. Of the many options available, the most cost-effective ones are mortgage and term insurance. Speak to financial planner.

- **Assets that are illiquid** – Does your estate consist mostly of illiquid assets? These are assets that aren't easily sold or converted into cash, like fine art, cryptocurrencies, some types of real estate, and private businesses. If so, you need liquidity in your estate, so that your loved ones – especially those financially dependent on you – have enough funds to cover living expenses, and don't have to sell the assets for much less than they are worth. You may therefore wish to diversify a little into more liquid assets or to buy life insurance.



How to make your will? ... continued

When will your assets be given away through your will?

- **Immediately or Later?** – Consider whether you want your estate to be given to your beneficiaries immediately on your death, or later. Immediate distribution is suitable if your beneficiaries are charities or responsible adults.

You may wish to delay giving money to a beneficiary who:

- is a **young person** – until a person is 21, they cannot easily hold property and are usually vulnerable to exploitation
 - **lacks mentally incapacity** – for e.g. a parent or spouse has dementia or Alzheimer's disease
 - has an **intellectual or physical disability** – they may not be able to handle money or be vulnerable to exploitation
 - has **substance abuse or addictions**, such as drink, drugs, gambling, or is a spendthrift.
 - is in an **abusive or difficult relationship** – they may be exploited by a life partner or on the verge of divorce
- **Use of a Trust in Your Will** – For these beneficiaries, leaving money through a trust is recommended. On your death, money or other assets are transferred to the trustee – who can be a family member, lawyer, accountant or licensed trustee – to hold and manage. The trustee is usually given guidance or instructions to pay money to the beneficiaries from time to time for education, housing or healthcare, or regularly, for living expenses.

If you include a trust in your will, it is a good idea in many cases to provide a '**letter of wishes**' to the trustees to guide them on how to manage and distribute the trust funds to the beneficiaries.



How to make your will? ... continued

How will your assets be given away through your will?

- **Specific gifts** – You can give specific items to close friends and family members, including a home, jewellery, a car, or art.
- **Monetary gifts** – You can make gifts of sums of money or monies in a bank account to close friends and family, either through a trust and distributed at a later date or to be immediately distributed.
- **Residuary gifts** – Your residuary estate is the rest of your cash and other assets after specific or monetary gifts are made and debts are paid. Often, it will be divided so that beneficiaries get a fraction or percentage. For e.g., “50% to my 1st son, and 50% to my 2nd son”. Most will-makers only make residuary gifts in their will, and not specific or monetary gifts, so they do not have to update their will each time their assets change or if their estate grows greatly.
- **Examples of how to design your will**

Example 1 – Married couples’ wills can leave everything outright to each other on the 1st death and everything equally to the children on the 2nd death. This is risky if the survivor remarries or is spendthrift.

Example 2 – For a married couple, a more suitable will may leave everything to the 1st to die - on trust - for the survivor and children’s benefit. Assets left in the trust when the survivor dies then go equally to the children. This benefits the survivor for his or her lifetime, but also safeguards the needs of the children.

Example 3 – A single person may wish to leave specific cash gifts to close friends and then divide everything else between nephews and nieces and their favourite charities.

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Leaving a legacy gift



Many of our clients leave a gift in their will for charities that have helped them or a loved one, or that they or a loved one support. A part of them lives on in the charity's work, and impact & meaning are unlocked from their life's work.

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Leaving a legacy gift

- **What** – A legacy gift is a gift that you make to a **charity** that is paid or transferred only when you **die**. So, it does not affect your retirement plan or ability to provide for your family. It can be a gift of cash, property, investments, fine art, or life insurance proceeds.
- **How** – Your will is the most common way of making a legacy gift, and to make a legacy gift, you simply have to decide on:
 - the **particular charity** or charities you want to benefit
if you do not have a specific one in mind, start by asking what causes you support. Relief of poverty? Or one that advances education, religion, arts, animal welfare, health or elder care?
 - the **type of asset** or **amount of money** to give to each charity
Many people choose to leave a residuary gift, which is where you reserve a portion of all your remaining assets after funeral expenses, debts and other gifts in the will have been paid. This kind of gift helps ensure your loved ones are taken care of first.

If you are giving all or some of your CPF monies or life insurance monies to charity, you have to use nominations instead of your will.

- **Why** – Many of our clients make legacy gifts to charities that have helped them or a loved one or that they or the loved one support.
They do this to give back or to remember a loved one. Also, some may feel that a part of them lives on in the charity's work, and that the gift helps to unlock impact and meaning from their life's work.

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When and how to change or refresh a will

- **When** – You should review your will and estate plan at least every 5 years and on major life changes, such as a new child or grandchild, the death or mental incapacity of a beneficiary or executor

If you do not regularly review your will and estate plan, it may create serious problems for your estate plan and executors. For example, your will may refer to a home that you sold, or a bank account you closed, if you left specific gifts of these in your will. If you only named your firstborn child as a beneficiary but later had two younger children, you may be accidentally disinheriting them!

If you divorce, your will is not automatically cancelled. So, you may accidentally benefit your ex-spouse if you do not make a fresh will. If you intend to separate or divorce, immediately arrange for a will or new will. Marriage, or re-marriage, does not automatically cancel your existing will, so always remember to make a fresh will so that you do not accidentally disinherit your loved ones.

- **How** – There are two ways to change your will. The first one is by adding a supplement to your will, which is known as a ‘codicil’. Your will is still valid, but it is now amended by the codicil. The second one is by revoking your will by making a new one.

The old will is usually destroyed or marked as ‘revoked’. Between the two methods, making a new will is better, as there are many potential problems with codicils (including the codicil being lost), and the cost difference between the two methods is negligible.

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Important documents relating to your will

After you have made your will, you should collect together some other documents that relate to it. This is to help your executors administer your estate and to make sure they do not miss out on any asset.

- **Schedule of assets and debts** – We provide our will-writing clients with a schedule and invite them to insert details of their assets and debts, such as on their bank accounts, investments, properties, life insurance policies, mortgage and personal loans.
- **Asset and debt-related documents** – You should keep all documents that relate to your assets and debts, such as:
 - bank or finance company account statements
 - property title deeds (if available)
 - life insurance policies and statements, and nominations (if any)
 - CPF statements
 - CDP (for listed company shares) and other investment statements
 - documents relating to a mortgage or loan
 - credit card and utility bills
 - income and property tax records
 - business profile, share certificates and shareholder or partnership agreements, if you own a private business
 - a list of your digital assets (emails, bitcoin, GrabPay credits, and photos stored on physical devices, online or in the cloud, etc.)

together with your will and schedule of assets and debts.

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When to seek specialist legal advice



Some people's situations are such that their loved ones are exposed to greater risks than usual. Do consider seeking specialist legal advice if these apply to you, to ensure that your loved ones aren't accidentally cut out of your will, made vulnerable or thrown into a fight

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Some people's situations are such that their loved ones are exposed to greater risks than usual. Do seek specialist legal advice if these apply to you, to ensure that your loved ones aren't accidentally cut out of your will, made vulnerable or thrown into a fight within their own family.

- **Intellectually or physically disabled loved ones** – If you have a loved one with an intellectual or physical disability, you need to create special arrangements to safeguard the inheritance you leave them, as they may not be able to manage money and may be vulnerable to exploitation. These arrangements include special needs trusts and deputyships, and lasting powers of attorney (**LPA**).
- **Elderly persons living alone** – If you have a loved one over the age of 65 years and who lives alone, know that they are at risk of suffering dementia. Their isolation also makes them more trusting, and so more vulnerable to exploitation. They may need an elder trust, deputyship, or an LPA with safeguards, to protect them.
- **Blended or Step-families** – If you are married and have a child from a previous relationship, you need legal advice. Especially if you have or plan to have a child with your spouse. Otherwise, you may disinherit or under-provide for your children of the earlier relationship. Remarriage automatically revokes a will, remember?

If you do not have a well-designed will, you may be setting your children and spouse for mistrust, resentment and conflict. A solution would be to create a trust in your will to give your spouse the right to live in your property or to receive income for their lifetime, and on their death, for the rest of your estate to be given to your children from the previous relationship and the new one.

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When to seek specialist legal advice...continued

- **Private business owner** – Most private business owners' wealth is concentrated in their business, and they usually don't diversify their assets. A private business is an illiquid asset, meaning that it is not easily sold. Not only is a lot of time needed to sell them, but most of them fail to find a buyer, even highly profitable ones.

So, a business owner's mental incapacity or death can destroy most of their wealth, with little left behind for loved ones. This is disastrous if they have dependents. Business owners need customised wills and LPAs, due to the uniqueness of private businesses. They should also have life insurance, for estate liquidity.

- **Committed relationship outside marriage** – People who are not married to their life partner, for example LGBTQ couples and those who are long-term cohabiters with no intention to marry, need to make wills and lasting powers of attorney to give their life partner an inheritance. This is because the law here doesn't accord LGBTQ or cohabitee relationships with succession duties or rights.
- **Pet-owner** – Pet owners need pet-centric wills and LPAs. This is to provide clarity on who will care for the pet on their death or disability, especially if they are single or don't have family members or friends who are animal-lovers. Even if they have someone to take over the care of their pet, and have a customised will and LPA, they should consider making a 'pet-owner letter of wishes'.

This provides information on how the pet should be cared for, including the ideal food, grooming, living conditions, medical treatment, daily routines, and overall welfare of the pet.

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Our Services

Kith & Kin Law Corporation is a Singapore law firm specialising in S.T.E.M. matters - **S**uccession, **T**rusts, **E**state and **M**ental Capacity.

Succession & Exit Planning	<p>We help entrepreneurs prepare:</p> <ul style="list-style-type: none">• to hand over ownership and management of their business to the next generation of family while preserving continuity and family relationships• their business for sale to third parties, to boost business valuation and saleability, so as to raise the chances of a successful sale and the sale price
Trusts	<p>We guide trust creators, trustees and beneficiaries on creating and administrating trusts, including trusts for wealth management, inheritance preservation, family harmony, asset protection, and philanthropic reasons.</p>
Estate Administration & Planning	<p>We guide individuals and their family members:</p> <ul style="list-style-type: none">• to arrange their financial affairs so as to preserve assets, and distribute them on death or mental incapacity, to benefit their loved ones and causes• on dealing with someone's assets and liabilities on their death, so that those picked to carry out their last wishes can carry out those last wishes, or know how to properly distribute the estate to family members
Mental Capacity	<p>We guide individuals and their family members:</p> <ul style="list-style-type: none">• to leave instructions on how their or their loved ones' healthcare, living and finances should be managed if they lose their ability to decide on these matters• to obtain legal authority to manage and protect the personal and financial affairs of their loved ones who have lost their mental capacity

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How we can help

If you're thinking of planning your estate and creating a will or trust, our team is happy to do an estate planning clarity meeting with you to answer your questions and guide you. We usually charge fixed fees for our work, as this provides the most clarity and assurance. Ask us for our fee guide.

During the **estate planning clarity session**, we will:

- understand your specific family structure and relationships, and your particular expectations and objectives for your loved ones and assets
- guide you on who most suitable people to carry out your estate plan are, and how to ensure that they follow your instructions
- how your assets are best dealt with on your death
- how to ensure that there is enough after paying off your debts and post-death expenses to benefit your loved ones and causes

Please contact our Estate Planning team at any of the following ways:

- whatsapp - **+65 8688 4783**
- email - **hello@kinkithlaw.com**
- post – Kith & Kin Law Corporation, 1 North Bridge Rd, #08-08 High Street Centre, Singapore 179094

We have a range of other guides and articles on our website, Facebook or LinkedIn pages, available for download, touching on topics that may be of interest to you or your family. To find out more, please access:

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- **LinkedIn** – www.linkedin.com/company/kith-kin-law-corporation