

**CERTIFICATE IN
FOUNDATIONS OF
WILLS WRITING

ASSIGNMENT ONE**



***Business &
Management
School***

WRITING YOUR OWN WILL



TUTOR TALK: This course is applicable to the Laws of England and Wales.

Note: For convenience, the masculine singular pronoun has been used throughout these materials to encompass both genders.

This course is designed to assist you in constructing and executing a will either as a printed or hand written document; your final assignment and exam shall be the drafting of your own will.

The course contains the requirements needed to produce a valid will for the following persons and circumstances:

1. The single parent/person with or without children.
2. The married couple with or without children (individual and mirror wills)
3. The couple who are expecting to be married (individual and mirror wills) and intending to have children.

The general directions in the above wills shall contain the following:

Leaving various gifts of items or money to friends or relatives and then all they have left to other persons such as siblings nephews/nieces grandchildren etc. or a charity, and/or appointing guardians for children and/or leaving all they own to their spouse and/or then to their children, and/or on Accumulation and Maintenance trust for their minor children.

The will of the single parent contains the option to appoint guardians who shall inherit the estate.

The course does not deal with inheritance tax issues of a taxable estate currently valued over £255,000, discretionary trusts, property severance, life interest trusts, residence for cohabitants, or split family residuary gifts.

The will that you write is going to contain various clauses (precedents) that provide the legal definition and direction of the wishes you express in your will.

In various books and forms available for will writing instruction there is a tendency to tell you what to write regarding your circumstances. In this course we offer an explanation of the alternative clauses relating to your circumstances, and why each clause might be needed. The result we hope is that you will understand why your will must be written in such a way, and how it reflects your wishes.

Your final assignment and exam is the drafting of your own or mirror wills.

We shall comment on any errors or amendments that may be needed to ensure that you have a valid will that reflects your wishes, and award a final pass mark upon completion of your will.

This course also tells you how to execute the will as a legal document.

Your will is the legal document by which you leave as gifts: money, and various other types of property upon your death.

The purpose is to dispose of all your estate to your beneficiaries and to ensure that no part of your estate is left undisposed of, thereby creating an intestacy.

The term estate or property encompasses all that you own.

If your estate or a part of it remains undisposed of then the rules of intestacy will apply to the distribution of it. You would die intestate or partially intestate. This event would incur additional expense and delay when your estate is in probate.

What happens if I die without leaving a valid will (intestate)?

If you are unmarried

Your estate will be inherited according to these rules: termed as the class. Each class of 1 to 7 must be exhausted before the next class comes into play.

1. Your children including adopted and illegitimate. But if none.
2. If your parents are still alive they will each receive half of your estate. If only one of them is alive they will receive all the estate. But if none.
3. If your parents are dead but you have brothers or sisters who are alive, they will have equal shares in your estate. But if none.
4. Your brothers and sisters of the half blood. But if none.
5. If your parents are dead and you have no living brothers or sisters, or of the half blood but your grandparents are still alive, they will inherit equal shares in your estate. But if none.
6. If your parents, grandparents and brothers and sisters and of the half blood are all dead but you have uncles or aunts who are still alive, they will inherit equal shares in your estate. But if none.
7. Your uncles aunts of the half blood. But if none.

If you have no living relatives as listed above, all your estate goes to the Crown.

Each class includes all the direct descendants of a deceased: children, grandchildren, etc. including adopted and illegitimate children, but not stepchildren.

Each class has complete priority, i.e. in class 1, if there is a single grandson of an illegitimate child being the only living relative in that class then they shall inherit all the estate to the total exclusion of all other classes.

If you are married with no children and your estate is worth up to £200,000.

Your husband or wife, if they live for at least 28 days after your death, will inherit your entire estate and your personal belongings (chattels) i.e., clothes, jewellery etc.

If you are married with no children and your estate is worth more than £200,000

Your husband or wife, if they live for at least 28 days after your death, will inherit your personal belongings and the first £200,000.

If your parents are still alive, they get half of the rest of the estate and your husband or wife gets the other half.

If your parents are dead, but you have brothers or sisters, they will share equally in the other half (of the rest of the estate).

If you have no brothers or sisters then your husband or wife takes all. No other classes apply.

If you are married with children

Your husband or wife will receive the first £125,000 of your estate and your personal belongings.

The rest of the estate is divided into two halves and:

- one half (a) is divided equally between the children:
- one half (b) is invested to give your husband or wife an income until they die:

After which:

The capital of (b) is divided equally between the children.

If you are unmarried and have no living parents, grandparents, children grandchildren, brothers or sisters, aunts or uncles

Your estate will go to the Crown.

Can I leave anything to anyone and exclude anyone I please?

The simple answer is yes and no. This is because the laws surrounding the disposal of your estate require that certain people such as your wife children or others you have cared for have a right to expect a benefit from your estate.

Your final wishes may not be what others have anticipated, and it is wise to consider when deciding on the distribution of your estate that you may be deemed to have had moral responsibilities to family and dependants. A dependant may apply to the Court under the provisions of the Inheritance (Provision for Family and Dependants) Act 1975, if they feel they have been aggrieved by not inheriting either by Will, or if you die intestate (Without a Will). The Court has wide powers to make awards and orders regarding the disposal of property.

The statutory bases for these claims is the Inheritance Provision for Family and Dependants Act 1975 I(PFD)A, amended by the Law Reform (Succession) act 1995.

Whilst its detractors maintain that the I(PFD)A violates the fundamental right of a testator to die with the knowledge that his wishes, as set forth in concrete form in his will shall be duly honoured, this Act remains a viable means under which the dissatisfied claimant can, to the degree that the courts allow, flout the express terms of a decedent's will.

How do I start?

Most wills follow the Basic Will Format.

This is the normal structure of a will, covering most eventualities.

Testator's name and address.

1. Revocation clause.
2. Appointment of Executors and Trustees.
3. Appointment of Guardians of minor children.
4. Burial desire.
5. Gifts of chattels and legacies.
6. Residue of estate given over to the trustees to hold and pay to designated beneficiaries.
7. Survivorship clause.
8. Residue to spouse / substitution of children / class closing.
9. Attestation clause.

I want to know what these words and phrases mean.

Below we have included a glossary for this course that you can refer to.