A.D.E Wills

A PLAIN-ENGLISH GUIDE

Separation, Divorce & Your Estate

Divorce edits your Will. Remarriage cancels it, unless you plan for it.

A short, clear guide to what a separation, divorce or new relationship means for your Will, your Lasting Powers of Attorney and your share of your home, and the simple steps that keep them saying what you mean.

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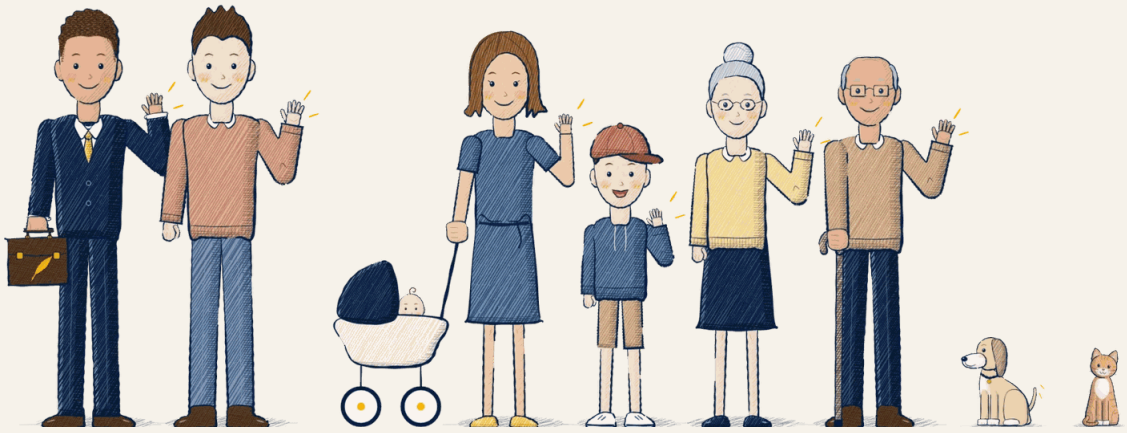
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WHY THIS MATTERS NOW

Until the final order, you are still married

A separation or divorce affects your Will and your Lasting Powers of Attorney in ways many people don't expect.

The law only changes your Will and LPAs at the very end of a divorce, when the court makes the **final order**. Until then, nothing changes automatically, and even then, only where your Will or LPA doesn't say otherwise. The same rules apply to civil partners when a civil partnership is dissolved.



While you're separated

- You are still legally married.
- Your spouse still benefits under your Will, or under the intestacy rules if you have no Will.
- If your spouse is your attorney, they can still act for you.



Once the final order is made

- Gifts to your former spouse in your Will fall away.
- They can no longer act as your executor, trustee or guardian.
- Their appointment as your attorney ends.

A WORD OF CAUTION

You don't need to wait for the divorce

The gap between separating and the final order can be many months. A new Will and new LPAs can be made at any time, so your wishes are protected now, not later.

IF YOU DIE WITHOUT A WILL

Separated, not yet divorced	Your spouse still inherits. If you have children, your spouse receives your personal possessions, the first £322,000 and half of the rest. If you have no children, your spouse receives everything.
Divorced	Your former spouse inherits nothing. Your estate passes to your children or, if you have none, to other relatives in a fixed order.
A partner you haven't married	Has no automatic right to inherit, however long you have lived together.

YOUR WILL

What divorce changes, and what it doesn't

Divorce doesn't cancel your Will. From the final order, the law treats your former spouse as if they had died on that date, unless your Will says otherwise.

What falls away

- Any gift to your former spouse.
- Their role as executor, trustee or guardian.

What stays in place

- The rest of your Will.
- Gifts to anyone else, including former in-laws.
- Any back-up gifts and executors you named.

THE KEY POINT

Divorce removes your former spouse, but doesn't rewrite your plans

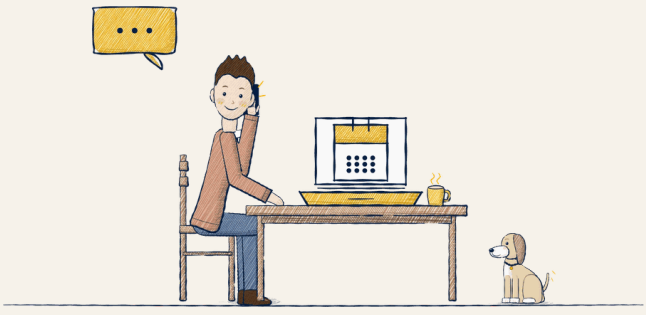
If they were your main beneficiary and you named no back-up, part or all of your estate could pass under the intestacy rules instead. A new Will that reflects your life now is the safest step.

Can a former spouse or partner still claim?

Whatever your Will says, a former spouse who hasn't remarried may be able to ask the court for reasonable financial provision from your estate, unless your divorce financial order ruled this out. So may a partner who lived with you as a couple for the two years before your death. Your Will can't prevent a claim, but we can record your reasons alongside it for the court to consider.

Take advice early

The earlier you look at your Will and LPAs, the fewer surprises there are. A free initial chat is the easiest place to start, online or over the phone.



Your attorneys and your share of the home

Two things that carry on quietly in the background during a separation, unless you change them.

Your Lasting Powers of Attorney

A spouse's appointment as your attorney ends automatically at the final order, unless your LPA says it shouldn't.

- **During separation,** a spouse named in a registered LPA can still act for you.
- **If they were your only attorney** with no replacement, the LPA ends on divorce and nobody is left to act for you.
- **While you have capacity,** you can cancel an LPA at any time and make a new one. A new LPA can only be used once the Office of the Public Guardian has registered it, so it's worth starting early.

Severing a joint tenancy

If you own your home as **joint tenants**, your share passes automatically to the other owner when you die, whatever your Will says. This carries on throughout a separation.

Severing the joint tenancy means you each own a defined share that passes under your own Will. Your co-owner must be given written notice, but doesn't need to agree. We prepare the Notice of Severance and Form SEV, and send the form to HM Land Registry for you.

Please note

We can only sever a joint tenancy into **equal shares**. Unequal shares, such as 60/40, need a Declaration of Trust, which sits outside the work we do. We'd be happy to refer you to a solicitor or licensed conveyancer.



STARTING AGAIN

Remarriage, new partners and children

Divorce edits your Will, but marriage cancels it.

Marriage cancels your Will

Marrying or forming a civil partnership automatically cancels any Will you made before. Unless you make a new one, the intestacy rules decide who inherits, which could leave children from an earlier relationship with far less than you intended.

The one exception

A Will made **in expectation of a particular marriage** or civil partnership, naming the person and saying it shouldn't be cancelled, survives that marriage. The wording must be in the Will before the wedding.



Living with a new partner

A partner you haven't married has no automatic right to inherit. If you want to provide for them, you need to say so in your Will.

YOUR CHILDREN



Guardians and trustees

Your Will can name guardians for children under 18 and trustees to look after their inheritance until an age you choose.



Life Interest Trusts

If you later live with a new partner or remarry, a Life Interest Trust can let them stay in your home for their lifetime, while protecting your children's share.



WHERE TO START

Your checklist

If you're separating, divorcing or remarrying, these are the steps worth taking, in order of priority.

1. **Make a new Will**
   Don't wait for the divorce to finish. A new Will can be made at any time.

2. **Review your Lasting Powers of Attorney**
   If your spouse is your attorney, decide whether to replace them now.

3. **Sever the joint tenancy on your home**
   So your share passes under your Will. We can prepare and submit this for you.

4. **Check your pension and life cover nominations**
   Most pensions, and life cover written in trust, aren't paid out under your Will, and nominations don't update on divorce. Contact each provider, and ask us if you'd like an introduction to a financial adviser.

5. **Plan again before you remarry**
   Make a Will in expectation of your marriage before the wedding, or a new Will straight after it.

A companion guide

If protecting a share of your home for your children is on your mind, ask us for our Protecting a Share of Your Home guide.





NOT SURE WHERE TO START?

Book a free initial chat

We'll look at where your Will and LPAs stand and tell you what, if anything, needs to change. Call **01865 507174** or book at **calendly.com/ade-wills/15min**.

WE'RE HERE TO HELP

Any questions?

If you have any questions about your Will, your LPAs or your share of your home, or simply where to begin, please get in touch. Your first chat is free, with no obligation.

Where we can help, and where we can't

We're estate planners, not divorce solicitors, and we don't act in the divorce itself. What we do is make sure your Will, your LPAs and your share of your home say what you want at every stage.

We're not financial advisers either. Where a financial adviser, an accountant or a solicitor would help, we're happy to make an introduction.

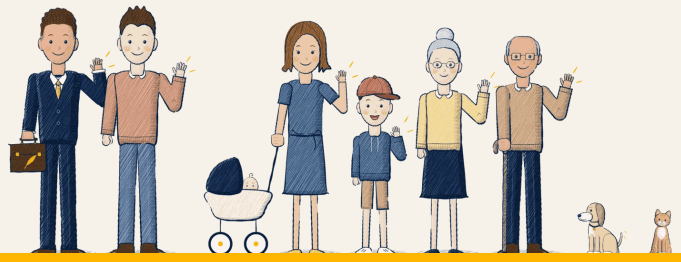
LET'S HAVE A CHAT

01865 507174

Email **info@adewills.co.uk** or book a free 15-minute call at **calendly.com/ade-wills/15min**. Home visits across Oxfordshire and Buckinghamshire, or online. Our fixed fees are always confirmed before we start.

OTHER ORGANISATIONS YOU MAY FIND USEFUL

Office of the Public Guardian	Lasting Powers of Attorney · 0300 456 0300 · gov.uk/power-of-attorney
Citizens Advice	Free, independent advice. Adviceline (England) 0800 144 8848 · Advicelink (Wales) 0800 702 2020



A.D.E Wills

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Visit
46 Woodstock Road, Oxford, OX2 6HT
(by appointment)

Opening hours
Monday to Saturday, 8am to 6pm

Your Will and LPAs are prepared by a full member of the Society of Will Writers, working to their Code of Practice and holding full professional indemnity insurance. We are professional Will writers, not solicitors, and we don't act in divorce proceedings or give financial or tax advice. This guide is general information about how separation, divorce and remarriage affect your Will and your LPAs under the law of England and Wales as at November 2026. It is not advice on your own circumstances and does not create a client relationship. The law can change, and our fees are always confirmed in writing before you instruct us.

A.D.E Wills is a trading name of A.D.E Estate Planning Limited.