

# Preparing for end of life

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**When you or someone you love is approaching the end of their life, you really will not want to think about practicalities such as wills, Power of Attorney or other legal safeguards – especially in a hurry.**

These are all vital to have in place, but it is so much better to make these arrangements well ahead of time. Doing so means that your health, end-of-life care and financial affairs will be managed according to your own wishes, giving you peace of mind and freeing you up to focus on loved ones.

This guide looks at how to deal with these practical issues and offers some useful suggestions for further help and advice.



**Mental capacity is the ability to make or communicate decisions for yourself at the appropriate times. To have mental capacity you need to be able to understand the decision to be made, why you need to make it and what is likely to happen as a result.**

As our health changes, our ability to make important decisions can become impaired. This is why many people rely on others to make decisions for them, often in a hurry or on an ad hoc basis.

Difficulty in making and/or communicating decisions can be due to a loss of mental capacity, although this is not always the case. Sometimes people just need a bit more time to understand things. The Mental Capacity Act 2005 (and its Code of Practice) explains how to decide if someone can make their own decisions or not. It also advises on how family and carers can help them and make decisions on their behalf, if necessary.

Following the guidance contained in the Act helps to ensure that your loved one's wishes concerning their care are followed, and gives you the confidence that you are making the right decisions on their behalf.

For more information about the Mental Capacity Act and how to approach making decisions for someone else visit:

**[www.alzheimers.org.uk/get-support/daily-living/making-decisions-mental-capacity-act#content-start](http://www.alzheimers.org.uk/get-support/daily-living/making-decisions-mental-capacity-act#content-start)**

## Deprivation of Liberty Safeguards (DoLS)

DoLS is part of the Act and aims to ensure that people in a care home or hospital setting are being looked after in a way that does not inappropriately restrict their freedom. Deprivation of liberty is when a person under continuous supervision and control is not free to leave and lacks the capacity to consent to the arrangements.

The safeguards ensure that:

- the arrangements are in your best interest
- you have appointed someone to represent you
- you have a legal right of appeal
- the arrangements continue for no longer than necessary.

For more information about DoLS, go to:

**[www.alzheimers.org.uk/get-support/legal-financial/deprivation-liberty-safeguards-dols](http://www.alzheimers.org.uk/get-support/legal-financial/deprivation-liberty-safeguards-dols)**

**Planning for the end of your life (or that of a loved one) where you may not be able to make or communicate decisions yourself involves putting in place certain legal protections to ensure that your wishes are carried out. There are several main forms of protection covering different types of situations. The most common are setting up a Power of Attorney (POA) and making an Advance Statement.**

## Power of Attorney

If your care needs are better met by moving into residential care, it is a good idea to give someone you trust Power of Attorney (POA) to make important decisions for you – even if you still have mental capacity. POA can be given for your financial affairs, decisions about your health and care, or both. You can choose whoever you like to act for you, and it could be different people for each type of POA.

It is only possible to set up a POA while you have the mental capacity to make the decision yourself, so it is important to do this while you still can. Otherwise, it becomes much more complicated and the Court of Protection may have to get involved.

Remember, too, that if you are married or in a civil partnership, your spouse does not automatically have the right to make decisions for you or access your bank account or pensions. The only way of ensuring that they can do so is to set up a POA.

There are two main types of POA and you can choose to set up more than one:

## **Ordinary power of attorney**

This covers decisions about your financial affairs and is valid while you have mental capacity. It is suitable if you need help for a temporary period such as a hospital stay or holiday. This might be because you need someone to access your bank account for you, for example.

## **Lasting power of attorney (LPA)**

An LPA covers decisions about your financial affairs or your health and care.

### **Finance LPA**

You would set up an LPA if you want to make sure that someone you trust can make decisions for you about buying and selling property, managing investments and paying bills, for example. It comes into effect if you lose mental capacity or if you no longer want to make those decisions for yourself.

You can either let your attorney make all decisions on your behalf or choose which types of decision you want them to make.

### **Health LPA**

An LPA for decisions about health and care is only used once you have lost the capacity to decide for yourself. It usually covers where you should live, your medical care, your diet, your social activities

and who has contact with you. You can also give permission for your attorney to make decisions about life-saving treatment.

## How to set up a Power of Attorney

Setting up POA is simple:

1. Choose your attorney – you can have more than one
2. Fill in the relevant forms
3. Register with the Office of the Public Guardian

For more information, and the forms you need, visit:

**[www.gov.uk/power-of-attorney](http://www.gov.uk/power-of-attorney)**

## Making an Advance Statement

You might also want to consider what could happen if you become unable to make decisions or communicate your wishes yourself.

An Advance Statement sets out in writing your wishes and preferences for your future care, including any values and beliefs that are important to you. It can cover any area of your health or social care in the future such as:

- where you want to be cared for – at home, in a nursing home, a hospital or a hospice

- how you prefer certain things to be done, from whether you prefer a bath or a shower to your favourite foods
- any practical issues such as arrangements for looking after a pet, for example

Although an Advance Statement is not legally binding, it must be considered by anyone making decisions about your care. It does not have to be witnessed but you should sign it as a clear indication of your wishes. You can choose who sees it and where it is kept – many people include a copy in their medical notes.

## An Advance Decision

An Advance Decision (also known as a living will) is a decision you can make now about refusing certain treatments in the future, and is a legally binding record of your wishes if you are unable to communicate them yourself at some point in the future.

If you wish to refuse certain treatments in some circumstances or do not wish to be resuscitated, these must be named in the document so that everything is clear. If you decide to refuse life-sustaining treatment in the future, you need to:

- write it down
- sign it in the presence of a witness
- have the witness sign it

For more information go to [www.nhs.uk/conditions/end-of-life-care/advance-decision-to-refuse-treatment](http://www.nhs.uk/conditions/end-of-life-care/advance-decision-to-refuse-treatment)



**It is important to make a will because it is the only way to ensure that your estate (your property, money, investments and possessions) go to the people or causes that you choose.**

If you are married or in a civil partnership your partner will have a right to inherit. But if you are not, they will have no rights without a will.

## How to write a will

### 1. Value your estate

Drawing up a list of what you own (and any debts) will give you an idea of what your estate will be worth. An estate usually includes:

- your home and any other property that you own
- money and savings in bank and building society accounts as well as National Savings (like premium bonds)
- life insurance policies
- pension funds that include a lump sum paid out on your death
- investments (e.g. stocks and shares, ISAs)
- cars or other vehicles
- jewellery, antiques and personal belongings
- furniture and household contents
- Do include any debts such as mortgages, credit cards, overdrafts, loans or equity release.

## 2. Decide what should happen to your estate

Consider:

- your beneficiaries (people who benefit from your will). These could be family, friends or a favourite charity. If you wish to leave money to a charity, do ensure that you include its full name, address and registered number.
- whether you want to give gifts – money or special possessions – to one or more beneficiaries.
- where the residue of your estate goes – this is anything that is left after paying funeral and administrative expenses, legacies and any taxes.
- what should happen if any beneficiaries die before you do.

## 3. Choose your executors

Executors help ensure that your estate is distributed according to your will. It is a responsible job and can involve a lot of work, so think carefully about who you choose to do this.

### Writing your will

There are several ways to write a will, and different people can help you:

- **Lawyers (a solicitor or chartered legal executive)** – some solicitors specialise in will writing and probate, the legal process involved in dealing with someone's estate.

- **Professional will writers** – check that whoever you use is a member of the Institute of Professional Will Writers.
- **Charities** – some offer a free will-drafting service. If you want to leave money to a charity, check with them to see whether they can help you write your will.
- **Banks** – some offer will-writing services and advice about estate planning.
- **Make your own will** – there are some online services which allow you to download a template. If you choose to do this, be aware that a valid will must be written, signed and witnessed correctly, by people other than your beneficiaries (who could lose their right to inherit). So it is better to seek advice before you go down this route.

## Making a will if you are unable to sign it yourself

If you are unable to sign your will yourself, someone can do it on your behalf. But you must be in the room and able to direct them to sign it for you. You must also have the mental capacity to make the will, otherwise it is not legal.

That is why it is a good idea to make a will as soon as possible, if you do not already have one.

For more information about wills visit:

[www.ageuk.org.uk/information-advice/money-legal/legal-issues/making-a-will](http://www.ageuk.org.uk/information-advice/money-legal/legal-issues/making-a-will)

[www.gov.uk/make-will](http://www.gov.uk/make-will)

**Inheritance Tax is a fact of life. Your heirs could face a tax bill of up to 40% of the value of your estate after any debts and funeral expenses have been deducted.**

Everyone has a tax-free inheritance allowance of £325,000 (known as the nil-rate band). This has stayed the same since 2010-11 but may change in the future. The standard Inheritance Tax rate is 40%. So everything in your estate above £325,000 would get taxed at 40%.

The best way to be sure of what your tax liability may be, and how this could be reduced, is to consult a qualified professional such as an accountant, solicitor or inheritance planning specialist.

Which? has a handy inheritance tax calculator which you can access via:

**[www.which.co.uk/money/tax/inheritance-tax/inheritance-tax-thresholds-rates-and-who-pays-avr xm3k7kgxw](http://www.which.co.uk/money/tax/inheritance-tax/inheritance-tax-thresholds-rates-and-who-pays-avr xm3k7kgxw)**

For more information about Inheritance Tax visit

**[www.gov.uk/inheritance-tax](http://www.gov.uk/inheritance-tax)**

**Planning one's own funeral might seem an unusual thing to do, but many people find peace of mind in having plans in place so that everyone knows their wishes well in advance. Doing so removes the need for their nearest and dearest to make decisions at a difficult and emotional time when it can be hard to think clearly.**

Family and friends will be comforted to know that they are giving you the funeral you wanted. Planning can also help to make the expense of a funeral easier to manage.

## **Making sure your wishes are respected**

Start by writing down some thoughts about what you want – you can use online funeral planning guides to help with this.

Consider:

- where your funeral should take place
- any preference regarding burial or cremation (and what should happen with your ashes)
- whether or not you wish loved ones to view your body
- type of service, religious or not
- invitees
- who should speak, if anyone
- your preferred music or readings
- how you wish to be dressed

- how you wish guests to be dressed (for example, these days, many people ask guests not to wear 'funereal' black)
- type of reception or wake and where this should be held
- which funeral director should organise your funeral

You may also find it helpful to discuss your thoughts with family and friends. That may not be easy, but it will be worth it because you can be confident that they understand your wishes. Certainly, you will want to let them know that you have made a plan. Then put your notes somewhere that is easy to find – preferably with your will.

## Pre-paid funeral plans

The average cost of a basic burial in 2023 is approaching £5,100 while a basic cremation will set you back by over £3,800 (source: SunLife) With costs rising, family and friends may struggle if you do not leave money in your will to pay for your funeral. One way to protect them is to take out a pre-paid funeral plan which lets you pay in advance and effectively fixes the costs at current prices.

Plans can vary hugely in terms of cost and the cover they offer.

To find out more visit:

[www.which.co.uk/money/insurance/funeral-plans](http://www.which.co.uk/money/insurance/funeral-plans)

This leaflet is part of a series designed to help people understand more about making safe and informed decisions about palliative and end-of-life care, how to find the best care home for you or a loved one and deal with some of the practicalities such as making a will or putting legal safeguards in place.

Visit our resource library for our other leaflets:  
[www.canfordhealthcare.co.uk/resource-library](http://www.canfordhealthcare.co.uk/resource-library)

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