

ASTUTE

WILLS & ESTATE PLANNING

Will Writing Guide

I have created this guide to provide free practical advice for anyone looking to get a Will. I've come across many online "guides" used by organisations as a way to steer you towards a sales pitch or gather your data for marketing purposes. This guide can be downloaded for free, with no catch or expectation of anything in return. It is intended for your use, enabling you to prepare for whomever you ultimately choose to write your Will, whether it's me, a solicitor, or even if you're brave enough to attempt writing one yourself.

Choosing Executors

What are executors?

Executors are the people who will be responsible for carrying out your wishes and for sorting out the estate. I have a separate guide that explains in more detail the role of the executors, but for now, I will provide a brief summary.

They will have to gather all the assets of your estate, deal with all the paperwork, and pay all the debts, taxes, funeral, and administration costs out of money in the estate. They will need to pay out the gifts and transfer any property to your beneficiaries.

Who to choose as executors

You don't have to appoint more than one executor, but it is definitely a good idea to do so in case one of them dies or is unable to fulfill the role when the time comes.

Most people prefer to appoint two executors, but you can have up to four executors to distribute the responsibility of carrying out the will after your passing. Typically, executors are friends or relatives, but you can also appoint professional executors, though this will involve charging fees.

It is crucial to choose executors with great care since their role entails a significant amount of work and responsibility.

Always approach anyone you are considering appointing as an executor to ensure they are willing to take on the responsibility. If someone is appointed as an executor but is not willing to fulfill the role, they have the right to refuse.

Tip 1 for picking Executors

Pick with your head not your heart.

It's crucial to prioritize selecting someone who possesses both emotional capacity and a practical mindset to handle this task. I often hear from clients who have chosen individuals simply because they were concerned about upsetting a less responsible person by not appointing them.

The chosen executor(s) must be responsible enough to promptly address estate matters, effectively communicate with beneficiaries, and make difficult decisions when necessary.

Tip 2 for picking Executors

Name at Least One Younger Executor

If you're young, it's not unreasonable to choose individuals who are of a similar age. However, as you grow older and your circumstances change, it is likely that you will revise your Will. At this stage, it is advisable to include at least one additional successor executor who is younger and in good health, increasing the likelihood that they will outlive you.

Tip 3 for picking Executors

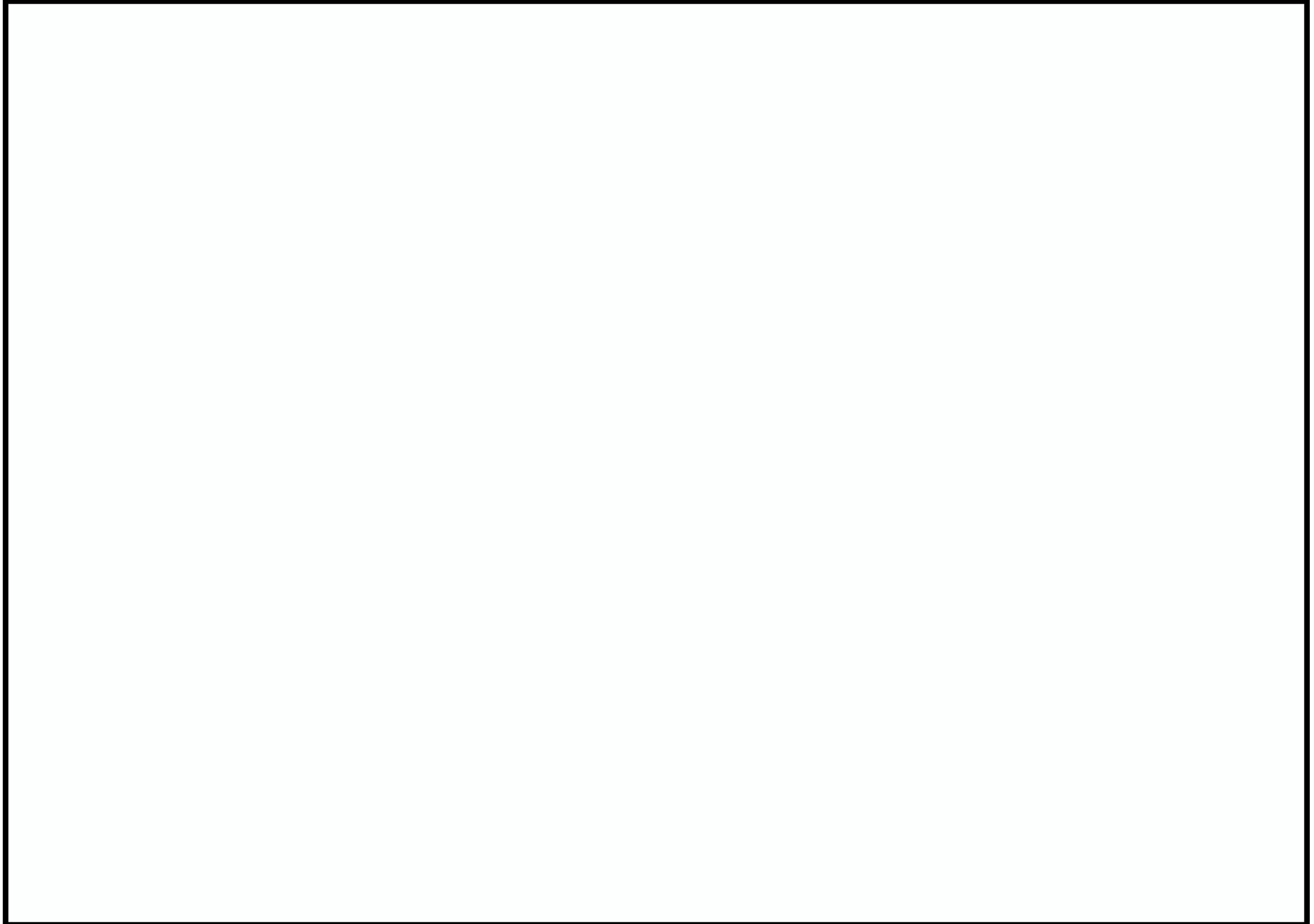
If in doubt get a Professional.

Dealing with the death of a loved one is already challenging, and handling additional administrative tasks can be overwhelming. Sometimes, it is better to choose a professional and accept the associated cost for the estate. After all, is that cost more important than someone's mental health?

If you genuinely know individuals whom you believe can effectively fulfill the role, then by all means, choose them. However, if suitable individuals are not available, appointing a professional is a viable option. This can be a solicitor, an accountant, or a trust corporation, among others.

Choosing Executors

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Valuing your Estate

Think about the important elements you want to include in your Will, such as:

- Property, savings, pensions, insurance policies, bank accounts, shares, and valuable possessions.

You are not required to gift every single small item you own. Anything not specifically mentioned will be considered part of your "residue estate." This term encompasses everything that remains after settling debts and making important gifts. In your Will, you can allocate a "gift of residue" to individuals, whether they are your children, a charity, or other family members.

To gain a clearer understanding of your estate, you can use the provided form to document your assets and liabilities.

Valuing your Estate

Assets:

Property:

Savings:

Life insurance:

Pensions:

Possessions:

Investments:

Total:

Liabilities:

Mortgages:

Loans:

Credit Cards:

Store Cards:

Other Debt:

Funeral Cost:

Total:

Assets - Liabilities = Estate Value Total

Choosing beneficiaries

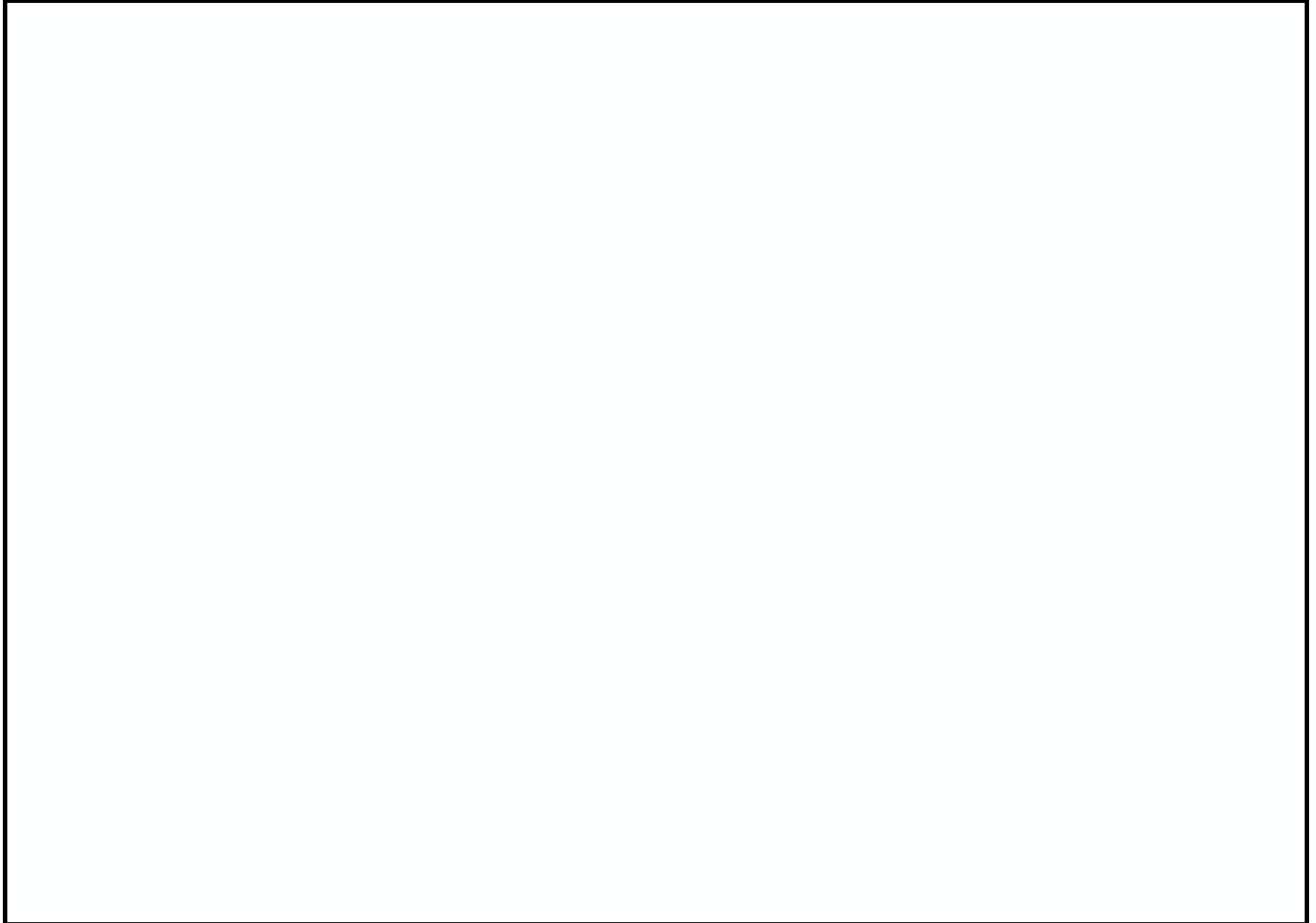
Consider who you want to benefit from your Will and create a list of all the individuals you wish to leave money or possessions to. These individuals are referred to as beneficiaries. One important aspect that many people overlook is selecting backup beneficiaries. A common scenario involves naming children as beneficiaries.

As difficult as it may be to contemplate, there is a small possibility that you might outlive your chosen beneficiaries. In such cases, it's important to decide what should happen to their share. Many people prefer the share to pass on to their beneficiary's own children, i.e., your grandchildren, if they have any.

If your beneficiary does not have children at the time of your death, you can stipulate that their share be transferred to your surviving beneficiaries. If you don't have any other children, it's worth considering who else could receive the gift. This could include friends, nephews, nieces, siblings, or even a charity.

Choosing beneficiaries

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Guardianship

A guardian is an individual whom you appoint in your Will to take care of your children in the event of your death before they reach the age of 18. When you appoint a guardian, they are granted parental responsibility and assume the same rights and responsibilities as a parent concerning the welfare and education of the child.

If you fail to appoint a guardian for your children and there is no other surviving parent with parental responsibility, the court will determine who should be appointed as the guardian for your children. This decision may not align with your preferred choice, underscoring the importance of making a clear appointment in your Will.

Tip 1 for picking Guardians

Pick someone Kind, patient and empathetic

No one's patience is limitless, and all parents are aware that raising children can test one's patience. Even with your own children, it can be challenging, but it can be even more demanding with others. Your children will require a great deal of tolerance and understanding, particularly considering the trauma of losing their parents. A patient individual is likely to demonstrate these qualities when interacting with your children.

Empathy and kindness are closely connected. Your children will benefit greatly from having a parent figure who can relate to them and show compassion, even during difficult times. Sometimes, we make the mistake of solely focusing on someone's ability to physically care for our children while overlooking their moral character. Emotional well-being is just as important as physical well-being.

Tip 2 for picking Guardians

Pick someone with similar beliefs and values

What are your fundamental beliefs and values? Is it crucial to you that a guardian agrees with those opinions? Although it can be challenging to find those who share all of our values, some will always be more significant than others. Make a list of the necessities versus the extras.

It takes experience to become a good parent, but every parent is also unique. Are you aware of the parenting philosophy of any potential guardians who are themselves parents? For those without children, you'll need to extrapolate that information from their interactions with your children and other kids. Whatever method you use to assess them, it might be helpful to understand their parenting style and how it differs from yours.

Tip 3 for picking Guardians

Financial Stability

One of the most crucial traits of a good guardian is financial stability. Taking on the additional responsibility of caring for your children can be challenging for someone who already faces financial difficulties.

How well will a guardian manage assets if they are entrusted with them on behalf of your children? The best indicator is likely their own financial situation. If you do not perceive anyone as financially stable, you should consider obtaining a life insurance policy to provide support for your guardians in raising your children.

What if I later decide I picked the wrong person?

Making such a decision can be difficult, but remember that your selection is not final. You can always update your will if you name someone today and later change your mind. As long as you are alive and capable, you can easily make changes to your will. For example, if you initially named your sister-in-law as a guardian and later discover that she is a functioning alcoholic, you can revise your will accordingly.

It's fine my parents will just look after them.

It's important to note that your elderly parents may not always be the best option. While parents are often chosen as guardians due to their successful upbringing of you, it is crucial to consider their age when your child reaches secondary school. They may not be prepared for the challenges of adolescence as they could be dealing with their own health issues.

What if my guardians die?

Consider naming a backup guardian. If you decide to choose your parents as guardians, think about appointing a backup guardian as well. Let your parents know that they are free to step down from the role if they are not up to the responsibility. The backup guardian can then assume the role once your parents are no longer able to fulfill it.

My partner and I can't agree. What should we do?

Over the years, I have witnessed some tense discussions between spouses regarding the choice of a guardian. It may be necessary to make compromises. What if one side of the family assumes the role of guardian while the other side takes care of the child's finances? The alternative is worse. If the decision is left to the family courts, they may select someone that neither of you desired.

Who would be the best people to choose?

A close family member who has children of the same age as yours or attends the same school as your family could be an ideal choice as your child's guardian. This would provide familiarity and stability to your child. Knowing that your child could continue attending their current school and be with their classmates in the unlikely event that something happened to you would be reassuring.

In the event of an accident, who would be the first person to care for your child? Even if it feels uncomfortable, consider who would take care of your child if you were hospitalized. Who would be the first visitor to your home, look after them, read them a bedtime story, and put them to sleep? That person may be a suitable guardian.

Guardianship

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Other considerations

Funeral Wishes

If it's important to you, in your Will you can let it be known whether or not you wish to be buried or cremated, what songs you want, what kind of service you want, flowers, even down to the dress code.

Organ Donation

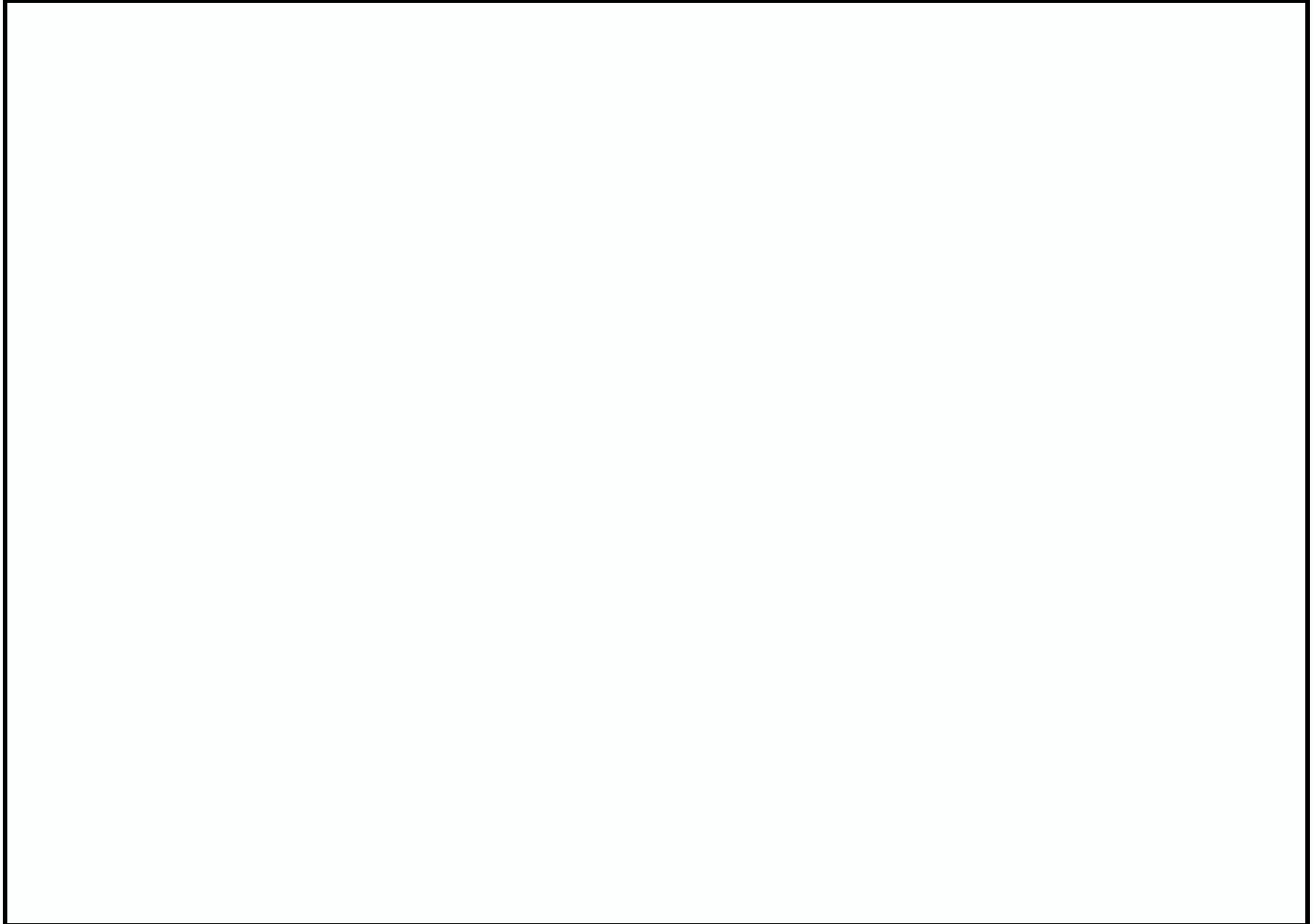
If you're not already on the organ donor list, you can specify in your Will how you want your organs to be used.

Provisions for pets

If you have any pets that need to be taken care of you can choose who looks after them.

Other considerations

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Complicated Estates

Some people may have more complex situations, and in such instances, it is advisable to seek proper advice. You may fall into this category if you have a substantial inheritance to leave to your children, if you have remarried and have children from multiple marriages, or if you are leaving an inheritance to a vulnerable family member, among other scenarios. Here are some examples of provisions you can include in your Will to avoid difficult situations arising after your death.

Children's Trust

A Children's Trust addresses your intentions for their inheritance. Without a Trust, they automatically receive everything when they turn 18. However, this is not usually advisable as not all 18-year-olds are ready to handle substantial inheritances. Additionally, it is impossible to predict the emotional impact of losing their parents at a young age and the potential individuals who may take advantage of their situation.

The Children's Trust allows you to specify an inheritance age of up to 25, at which point you assign authority over the inheritance to your chosen Trustees. This ensures that your children can still access the inheritance for sensible purposes, such as a house deposit, university, or any other provisions you have predetermined with your trustees.

Vulnerable Persons Trust

A Vulnerable Persons Trust is a crucial addition to your Will if you intend to leave a portion of your estate to a loved one who is disabled or has severe learning difficulties. The purpose of a Vulnerable Persons Trust is to appoint trustees who will legally manage the provisions left for that person.

Without this Trust, it could lead to state-assisted care and the cessation of any benefits, as receiving the estate would often result in your loved ones surpassing the means testing threshold. The Trust acts as a protective barrier around the inheritance, ensuring that the assets outlined in the Will are not subject to means testing. This, in turn, safeguards any existing entitlements for your vulnerable loved one.

Protected Property Trust

A protected Property Trust safeguards the home you own. In most cases, properties are jointly owned, which means that upon your death, the surviving partner becomes the sole owner of the property. However, this poses a significant risk as it may prevent your children from inheriting the property. Risks include remarriage, debt, and care costs.

With a Protected Property Trust, each partner individually owns half of the house. Your Will includes instructions to direct your half into a discretionary trust, protecting it from the aforementioned risks. This arrangement also ensures that your spouse retains the right to reside in the home until their death or the sale of the property.

If a property is solely owned, the entire asset would be transferred to the trust for the benefit of your beneficiaries, with the non-homeowner spouse receiving the right to occupy the property until a specified time of your choosing.

I hope you found this guide to be useful. Writing a Will is not a comfortable subject, and by reading this guide, you have already taken the first steps towards getting it done. If you are seeking a trusted Will Writer to assist you, I hope you would consider Astute Wills & Estate Planning.

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