



GOV.UK

Make a statutory will on behalf of someone else

NOTES

1. Overview

Apply to the Court of Protection (<https://www.gov.uk/apply-statutory-will/how-to-apply>) if you want to make (or change) a will on behalf of someone who can't do it themselves.

This may be because, for example:

- they've had a serious brain injury or illness
- they have dementia

You can apply when the person isn't able to understand:

- what making or changing a will means
- how much money they have or what property they own
- how making or changing a will might affect the people they know (either those mentioned in the will or those left out)

! Someone who has lost the [mental capacity](https://www.gov.uk/make-decisions-for-someone) (<https://www.gov.uk/make-decisions-for-someone>) to manage their finances may still have the ability to make a will. A solicitor will usually be able to tell you if they are.

How to apply

- [Download, fill in and return the forms](https://www.gov.uk/apply-statutory-will/how-to-apply) (<https://www.gov.uk/apply-statutory-will/how-to-apply>) with details of the proposed will and supporting documents.
- [Tell other people](https://www.gov.uk/apply-statutory-will/after-you-apply) (<https://www.gov.uk/apply-statutory-will/after-you-apply>) that you've applied.
- [Attend a hearing](https://www.gov.uk/apply-statutory-will/getting-a-decision) (<https://www.gov.uk/apply-statutory-will/getting-a-decision>) if the Court of Protection decides to hold one.
- Sign the will, have it witnessed and [send it to the Court of Protection](https://www.gov.uk/apply-statutory-will/finalising-the-will) (<https://www.gov.uk/apply-statutory-will/finalising-the-will>) to have it 'sealed'.

Emergency applications

You can apply to the Court of Protection for an [emergency decision on a statutory will](https://www.gov.uk/emergency-court-of-protection) (<https://www.gov.uk/emergency-court-of-protection>) if the person you're applying for only has a short time to live.

Get legal advice

You can get legal advice from:

- [a solicitor](https://www.gov.uk/find-a-legal-adviser) (<https://www.gov.uk/find-a-legal-adviser>) - you'll have to pay for this
- organisations which give advice for free, eg [Citizens Advice Bureau](#)

2. How to apply

Download and fill in the following forms to apply to make a will on behalf of someone, or to make changes to their existing will:

- [application form \(COP1\)](#)
- [witness statement \(COP24\)](#)
- [information form \(COP1C\)](#)

You'll also need to prove to the Court of Protection that the person isn't able to make a will by themselves.

Download and fill in [assessment of capacity form \(COP3\)](#) - you'll need to get the person's doctor or other medical professional to fill in the relevant parts.

Send the completed forms, your supporting documents and [payment \(https://www.gov.uk/apply-statutory-will/fees\)](https://www.gov.uk/apply-statutory-will/fees) to the Court of Protection.

Court of Protection
PO Box 70185
First Avenue House
42-49 High Holborn
London
WC1A 9JA

Supporting documents

You'll need to include the following information and documents:

- a copy of the person's current will and any amendments ('codicils')
- a copy of the proposed new will or codicil
- a copy of any deputyship order
- details of the people who have agreed to deal with the will after the person's death ('executors')
- a copy of any registered [lasting power of attorney \(https://www.gov.uk/power-of-attorney\)](https://www.gov.uk/power-of-attorney) or registered [enduring power of attorney \(https://www.gov.uk/enduring-power-attorney-duties\)](https://www.gov.uk/enduring-power-attorney-duties)
- the person's family tree
- reasons the person might be expected to provide for people named in the will ('beneficiaries')
- the person's address and details about where they're living, eg care home, hospital

You must also provide:

- details of the person's estate and assets
- accounts showing their estimated income and outgoings
- details of any inheritance tax payable in the event of the person's death

Acting in the other person's best interest

Decisions taken on someone's behalf must always be in their [best interest \(https://www.gov.uk/government/publications/mental-capacity-act-code-of-practice\)](https://www.gov.uk/government/publications/mental-capacity-act-code-of-practice). You must consider:

- what they would do if they were able to make a will themselves
- their beliefs and personal values
- how they've acted and made decisions for themselves in the past

Read the [Court of Protection practice direction \(9F\)](#) for more information and an example of a statutory will.

3. Fees

An application for a statutory will costs £400.

You may also have to pay:

- £500 if the court decides to hold a hearing (including telephone hearings)
- solicitor's fees if a solicitor is appointed by the Official Solicitor to act as the person's [litigation friend](https://www.gov.uk/litigation-friend) (<https://www.gov.uk/litigation-friend>)
- Counsel's fees (if there are any)

How to pay

Send a cheque for £400 made payable to 'HM Courts and Tribunals Service' with your completed forms and supporting documents.

You'll be told when you need to pay any additional costs, eg for court hearings.

You may be able to claim back any fees you pay from the estate of the person you're applying for.

Exemptions and refunds

You may not have to pay an application or hearing fee, depending on the circumstances of the person you're applying for, eg they:

- have low (or no) income
- are on certain types of benefit

Download and fill in the [application for a fee remission](#) form and send it the Court of Protection with your application forms. The form contains guidance about exemptions.

The fee will be refunded if the person dies within 5 days of the Court of Protection receiving your application.

4. After you apply

The Court of Protection will send you a letter to confirm that your application has been received.

You'll also get a stamped copy of your application form and a 'directions order' from the court telling you what to do next.

The Official Solicitor

The directions order might tell you to write to the Official Solicitor to tell them about your application. The Official Solicitor makes sure that people who can't make decisions for themselves have someone to represent them in court cases.

Official Solicitor
Victory House
30-34 Kingsway
London
WC2B 6EX

Tell people named in your application

Your directions order will say who you must tell ('serve') about your application. This could include the person who the application is about and:

- anyone named in an existing will who would be affected financially, eg they aren't a beneficiary in the new will
- anyone who would be expected to benefit if the [person were to die without a will](https://www.gov.uk/inherits-someone-dies-without-will) ('intestate') (<https://www.gov.uk/inherits-someone-dies-without-will>), eg family members
- any other people named on your application
- the Official Solicitor

You must serve both of the following documents within 14 days of the application being issued:

- [notice that an application form has been issued \(COP15\)](#)
- [acknowledgment of service form \(COP5\)](#) so they can confirm they've been told about the application and register any objection

You can serve them:

- by post to their home address
- by fax or email
- in person

! You'll be given time to reach a decision with the people you've served. The Court of Protection may [hold a hearing \(https://www.gov.uk/apply-statutory-will/getting-a-decision\)](https://www.gov.uk/apply-statutory-will/getting-a-decision) if you can't.

5. Getting a decision

The Court of Protection will tell you if:

- your [application's been approved \(https://www.gov.uk/apply-statutory-will/finalising-the-will\)](https://www.gov.uk/apply-statutory-will/finalising-the-will) or rejected
- you have to provide more information, eg further medical reports
- there'll be a hearing to get more information

Court hearings

The Court of Protection will hold a hearing, or hearings, if you haven't been able to reach a decision with the people you've served.

You can also [get a solicitor \(https://www.gov.uk/find-a-legal-adviser\)](https://www.gov.uk/find-a-legal-adviser) to represent you during the hearing.

Read the guidance on what to expect from a [Court of Protection hearing](#).

You'll have to [pay a hearing fee \(https://www.gov.uk/apply-statutory-will/fees\)](https://www.gov.uk/apply-statutory-will/fees) after the court makes their final decision.

Appeal a decision

You can ask for a decision that was made without a hearing to be reconsidered any time within 21 days of the decision being made.

To appeal a decision made at a court hearing download and fill in the [Appellants Notice Form COP 35](#).

You must pay £400. You can [apply for help paying the fee](#) if you're getting certain benefits or on a low income.

Send the form to the Court of Protection with a cheque made payable to 'HM Courts and Tribunals Service' within 21 days of the date the decision was made.

Court of Protection
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6. Finalising the will

You'll be sent a court order confirming that your application has been accepted with a letter telling you what to do next.

Sign the will

You must sign 2 copies of the will. Both copies should be signed in your name and in the name of the person the will has been made for. You must also get 2 witnesses (aged 18 or over) to sign them.

The witnesses must:

- be with you when you sign the will
- sign the will straight after you

Send the 2 signed copies of the statutory will to the Court of Protection.

The 2 copies will be given the court's official seal and sent back to you.

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When the person dies

The [statutory will can be handled \('executed'\)](https://www.gov.uk/wills-probate-inheritance/if-the-person-left-a-will) (<https://www.gov.uk/wills-probate-inheritance/if-the-person-left-a-will>) in the normal way, as if the person had made the will themselves.

Last updated: 23 September 2016

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