

# Your guide to making a will



The Law Society

## Who should make a will?

If you care about what happens to your property after you die, you should make a will. Without one, the State directs who inherits, so your friends, favourite charities and relatives may get nothing.

It is particularly important to make a will if you are not married or are not in a registered civil partnership (a legal arrangement that gives same-sex partners the same status as a married couple). This is because the law does not automatically recognise cohabitants (partners who live together) as having the same rights as husbands, wives and civil partners. As a result, even if you've lived together for many years, your cohabitant may be left with nothing if you have not made a will.

A will is also vital if you have children or dependants who may not be able to care for themselves. Without a will there could be uncertainty about who will look after or provide for them if you die.

Your solicitor can also advise you on how inheritance tax affects what you own.

**You should also consider taking legal advice about making a will if:**

- several people could make a claim on your estate when you die because they depend on you financially;
- you want to include a trust in your will (perhaps to provide for young children or a disabled person, save tax, or simply protect your assets in some way after you die);
- your permanent home is not in the UK or you are not a British citizen;
- you live here but you have overseas property; or
- you own all or part of a business.

Once you have had a will drawn up, some changes to your circumstances - for example, marriage, civil partnership, separation, divorce or if your civil partnership is dissolved (legally ended) - can make all or part of that will invalid or inadequate. This means that you must review your will regularly, to reflect any major life changes. A solicitor can tell you what changes may be necessary to update your will.

## Using a solicitor

Although it is possible to write a will without a solicitor's help, this is generally not advisable as there are various legal formalities you need to follow to make sure that your will is valid. Without the help of an expert, there's a real risk you could make a mistake, which could cause problems for your family and friends after your death.

## Finding a solicitor

If you need to make a will but don't have a solicitor, visit our website at [www.lawsociety.org.uk/findasolicitor](http://www.lawsociety.org.uk/findasolicitor) and search under 'Wills and Probate' to get details of solicitors in your area. Or you can call 0870 606 2555.

## What your solicitor will need to know

Once you have appointed a solicitor, they will need the following details from you.

### What you own

Details of everything you own, including property, cars, personal valuables, stocks and shares, bank accounts, insurance policies, any businesses you own, and pensions.

### Who gets what?

Who do you want to leave these assets to? How do you want to divide your property between your loved ones, friends or charities? Are there any conditions you want to attach to these gifts (for example, that young people must reach a particular age before they are paid money you have left them)?

### Family and other beneficiaries

Details of your family and status. Are you divorced or has your civil partnership been dissolved? Have you remarried or entered into a new civil partnership? Or are you living with someone without being married to them or being their civil partner? Do you have any children or any other dependants? Anyone who depends on you financially can ask a court to review your will if they feel you have not provided properly for them. If you give your solicitor relevant details, they can tell you about any legal pitfalls.

### Guardians

If you have any children that may still be under 18 when you die, you may need to name someone as their legal guardian.

### Other wishes

Do you have any particular wishes for your funeral? Do you want to be buried or cremated? Are there any other instructions? For example, if you want to be an organ donor this can be included in your will. However, it is also a good idea to record your wishes on the organ-donor register, or to carry an organ-donor card.

### Executors of your will

You must also name the people you want to appoint as 'executors' of your will - the people who carry out the administration of your will after your death. These could be friends or family members, or a professional such as your solicitor. A good combination would be a friend or family member and a professional. Ideally, you should choose someone who is familiar with financial matters. Make sure you ask your executors whether they are happy to take on this duty as there are long-term responsibilities involved, particularly if you include a trust in your will. It is a good idea to ask someone younger than you are.

## Signing the will

Once the will has been drawn up it is not effective until it has been signed. There are several rules affecting the signature process which, if not followed correctly, will make your will

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invalid. For example, witnesses and their husbands, wives or civil partners cannot benefit under the will. Many people use staff at their solicitor's office to act as their witnesses to avoid this problem.

## Where to keep the will

It is important to keep your will in a safe place and tell your executors or a close friend or relative where it is. People often ask their solicitor to store their wills for them. Most solicitors will do this for free, but sometimes there is a small fee.

## Keeping your will up to date

You should review your will at least every five years and after any major life change such as getting separated, married or divorced, having a child or moving house. It is best to deal with any major changes by getting a new will drawn up. But it is also possible to make minor changes (or 'codicils') to your existing will. In both cases it is best to consult a solicitor.

## Costs

Charges for drawing up a will can vary between solicitors. They also depend on:

- the experience and knowledge of the solicitor; and
- how complicated your will may be.

Before you decide who to use, check with a few local solicitors to find out how much they charge. But remember that cost should not be the only consideration. It is equally important to find a solicitor who is approachable and whose advice you understand.

## More information

This is one of a series of leaflets covering the most common types of legal services which solicitors provide. Other leaflets in the series are listed below. You can get them from your solicitor or by phoning the Law Society on 0870 3333 084.

- Your guide to buying a home
- Your guide to getting a divorce
- Your guide to problems at work
- Your guide to setting up in business
- Your guide to making a personal injury claim
- Your guide to financial matters for the elderly
- Your guide to setting up home with your partner
- Your guide to renting out your property
- Your guide to renting a home
- Your guide to using a solicitor
- Your guide to probate
- Your guide to claiming asylum

You can get this leaflet in large print, in Braille, on audio tape and on CD. If you need one of these versions, please contact us by e-mail at [accessibility@lawsociety.org.uk](mailto:accessibility@lawsociety.org.uk) or phone **0870 606 2555**.

You can also get this leaflet in different languages. You can get these by visiting our website, [www.lawsociety.org.uk](http://www.lawsociety.org.uk).

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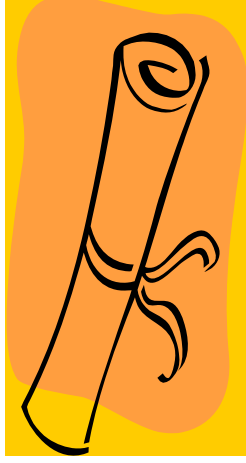
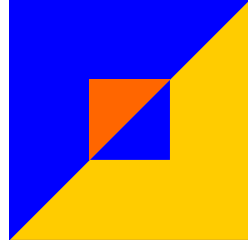
Many people think they do not need a will. Yet have you ever considered the complications that might arise if the unthinkable happened?

**For example, without a Will:**

- If your assets, including the value of your property, exceed a certain figure they will not automatically pass to your spouse.
- Your partner will not automatically receive all of your assets.
- Disputes may arise within the family over your property and other assets.

**However, with a Will, you can do the following:**

- You can decide exactly what you want done with your property.
- You can appoint just who you want to act as your personal representatives and give them all the powers they need to effectively administer your will.
- You save your beneficiaries from paying any unnecessary tax.
- You can appoint guardians for young children, ensuring that in your absence they are brought up according to your wishes.



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**Why Make a Will?**

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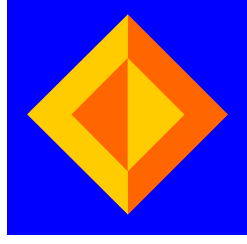
## INTESTACY

Every day 2000 people die in this country and most of them leave their families with all the problems of Intestacy - this means dying without having a legally valid Will. Most people incorrectly assume that all their possessions will automatically pass on to their husband or wife or other members of the family. Unfortunately, many families often face immediate financial hardship and sometimes they even have to sell the family home simply because no Will had been written. The law of intestacy means that the State writes a Will for you and your possessions are distributed according to that law

## This is the last Will and Testament

- of me - John William Everyman  
of 123 Any Road, Anytown, Anyshire, AN1 1NA

1 HEREBY REVOKE all former Wills and testamentary dispositions made by me and declare this to be my last Will



### About Us.

We are a small, but friendly practice.

Graham Colley has been qualified as a solicitor for over 30 years and specialises in all aspects of Wills and Estate Planning as well as advising on disputed Wills

We can offer Home visits and Fixed Fees

Perhaps, you have been intending to make a Will for a while — We help you make it easy!



Tel: 01634 838656 Fax: 0845 280 7537

Mobile: 07785 311342

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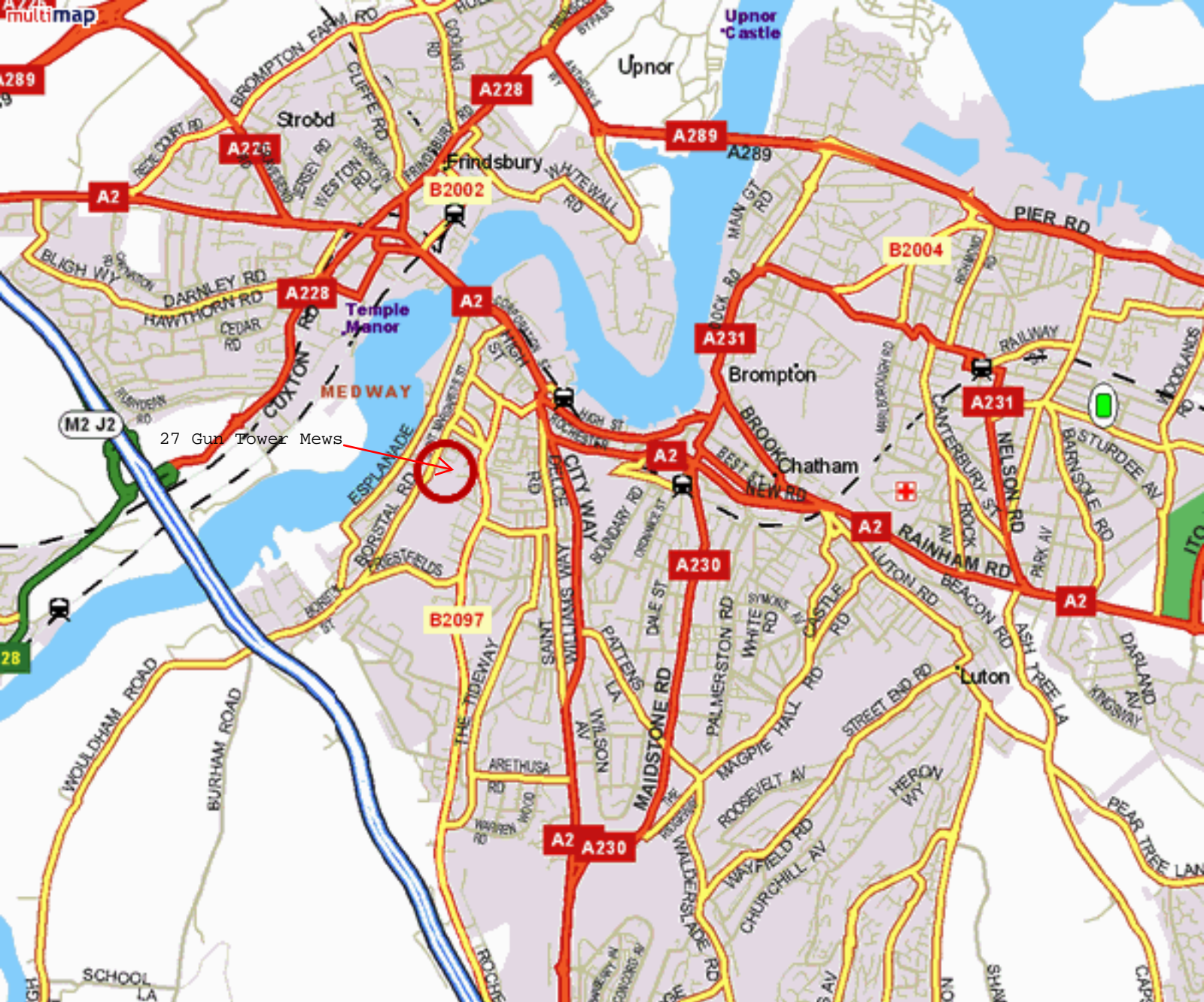
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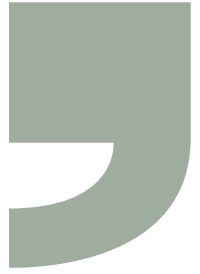
# Using a lawyer as you get older: Ten top tips

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*LEGAL*  
OMBUDSMAN

**The information in this leaflet is useful for anyone who is considering using a lawyer but it may be particularly useful for people who have specific needs because of their age.**

**A lawyer should provide you with clear information about their role, how they will work with you, as well as details of their service including costs.**





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## Introduction

Many of us will need a lawyer at some time in our life. However, research shows that as we get older we tend to use lawyers more – to buy or sell property, to get married or divorced, make a will, sort out our finances or to make sure we have made plans in the event that we can no longer deal with our affairs ourselves. Lawyers can help with all of these issues but it is important to choose the right lawyer for you. Finding the right lawyer will depend on what you want and how much it will cost.

This guide sets out our top ten tips to help you if you need to use a lawyer. The most important thing is that you feel confident enough to ask questions and are sure that the service is what you want and one that you can afford.

We have come up with ten questions to ask your lawyer alongside our top tips. We have also explained the terms used to help you get the most from conversations with lawyers about their service to you.

A lawyer who values good service will happily answer your questions. They work under a Code of Conduct and so must behave professionally and with integrity and act in your best interests. Lawyers also have a duty to provide you with information when you first appoint them, which explains what they will do for you as well as the likely costs.

Of course, sometimes you can have problems with your lawyer along the way. Thankfully the Legal Ombudsman is here to help.

Based on the type of issues and complaints we see, we hope this guide will help ensure the legal side of things runs smoothly.

## 1. Do I need a lawyer?

This depends on what you want help with. If you have a legal or practical problem that needs sorting out, like putting in place a will or selling a house, then you might need a lawyer.

But legal services can be complex and you need to find someone with the right expertise and experience to help you. It can help if you take some time to find the right lawyer – don't feel rushed into making a decision that you don't feel comfortable with. Getting legal advice is usually linked to important decisions, and you need to work with someone you trust and who will work with you to come to the outcomes that you want. Using a legal service needs to be your decision and not someone else's choice.

## 2. What do I want from my lawyer?

A lawyer's role is to help you to get the result that you want. But in order to do this they need to know what you want to happen.

It helps to be clear about what help you need before you talk to a lawyer. Writing a will, for instance, isn't just about signing the papers – the document will set out what you want to happen with your house, possessions and finances. In the same way, deciding who should be your power of attorney is an important choice and you need to consider who can best carry out this role. These are personal decisions that only you can make – though your lawyer will be able to offer some advice to help you come to a decision you are happy with.

So think clearly about what result you are looking for. The clearer you are, the simpler it is for your lawyer to understand what you want - and the less room there is for misunderstanding.

The same is true when thinking about costs. Before you talk to a lawyer, it helps to be clear about what you can afford. Being clear about the specifics of what you need will help a lawyer give you a better estimate of what it might cost.



### Top tip

Ask questions. If you don't understand something, ask so you are clear. Legal services can be complicated, so there are no silly questions. Make sure you understand what is going on and how much you might be charged. Sometimes the answer can't be a fixed amount but it's good to get an idea of the price range.

### 3. How do I choose a lawyer?

Once you know what you want to do, there are lots of ways of finding a lawyer. It can be helpful to get a personal recommendation from family or friends or you can look in the phone book and online. If you have access to the internet, each of the professional bodies (such as the Law Society and Council for Licensed Conveyancers) have a find-a-lawyer search tool. You can see these [here](#).

The main point is to shop around until you find someone you are happy to work with.

It can also help to talk to a lawyer about how they will work with you before you decide to use their service. You should consider if you would prefer face-to-face conversations rather than talking on the phone or by email. If that is the case then you might need to consider where the office is and whether you can get there. If you can't, then ask if they will do home visits and how much it will cost. It is important to think about how you will work together as well as checking if the lawyer has the rights skills and experience for you.



### Top tip

It's ok to shop around. Get advice to help you find a lawyer that you trust and feel comfortable talking to. Speak to family, friends and other people you trust or contact organisations like Age UK or a Citizens Advice Bureau for free guidance on finding a lawyer.

## 4. What will it cost?

Before you make your choice you may find it helpful to have a consultation by phone, face-to-face, letter or online. A lawyer can charge you for this but they should tell you before you book and explain any conditions. For example, they may offer the first 30 minutes free but charge for time above that.

A lawyer should speak to you about costs and provide the best possible information so you can make an informed choice.

Lawyers have different ways of charging and their charging method may also vary according to the service. For example, they may offer a fixed fee for writing a will, but an hourly rate for a probate service (the administration of a will when someone has died). Find out what charging method the lawyer will use and ask them to explain it to you in detail.

A lot of firms will not issue you with a quote but will instead provide you with an estimate of the amount of work and their costs. This can make it difficult to compare but all estimates should provide a reasonable idea of the final bill. This can sometimes be hard to predict but at the very least your lawyer should keep you updated throughout a case.

At the end of this guide we explain what some of the different forms of funding agreements are to help you understand them.



### Top tip

If you have a consultation, make the most of the opportunity. Don't just ask how much the hourly rate is. Ask for an estimate of how many hours it will take and what's included. Also ask what might cause this to change and see how likely it is. Sometimes you'll be given a range for the costs, but this will help you budget and know where you stand.

## 5. Is it ok to ask questions?

The law can be a complex area and part of your lawyer's work is to make sure that you understand each step of the service they are providing. If there is anything that you're unsure about, ask. Your lawyer is the legal expert and that's what you're ultimately paying them for.

All too often people can feel intimidated when dealing with professionals who are experts in their field but good lawyers will welcome questions and it can help to prevent problems later on if you mention what's on your mind at the time.

Lawyers are experts in the law but only you know what is important to you. If there is something that you are particularly concerned about – whether it is the costs or the way that they deal with you – then you need to tell them so they understand.

There is no such thing as a silly question. For instance, you might ask what will happen if you change your mind and you don't want to move house after all. Or you might be more concerned about how they will work with you and whether they can come and see you if you aren't able to go to their office. It can also be useful to agree how you will contact each other and how often. For instance, if you have any particular requirements because English is not your first language or because you have specific physical needs then you should raise this with the lawyer and see what they can offer to assist. They may be able to offer translators or provide

the service in a different way. Whatever the issue, you need to agree how you will work with your lawyer so that you both understand what is expected.

If you don't feel comfortable with something, then tell someone you trust and ask them to help you raise what is on your mind.



### Top tip

Don't assume that because some lawyers offer free consultation, they all do. Ask if there's a fee when you book a consultation. Sit down and use any first meeting to talk about how you will work together. Agreeing that you'd prefer to do things face to face, or all by letter, can help later on.

## 6. What can I expect from my lawyer?

All lawyers agree to uphold a Code of Conduct in their work. So, when you are their client, they should be working for you and acting in your best interests – the lawyer should be clear about what you want to happen and check that what they are doing matches this. Sometimes this means they might challenge you, so they are sure that you have thought about your requests and the consequences. Good lawyers will do this to help you think about what you are doing and to make sure you understand the legal implications.



If someone else has told your lawyer what you want on your behalf, a good lawyer will still want to check with you personally to make sure it is what you want to happen, even if it is a close family member who talks to them. Sometimes they will ask to check this with you in private, so they are clear that you agree to what they have been asked to do.

Sometimes your lawyer might ask you some difficult or unexpected questions. One example of this is that a lawyer may ask for a medical report. This can be a common request if you are older and making a will or making a power of attorney. Don't be offended, they are doing their job – but they should explain to you the reasons why they have asked for the report.

You should not feel pressured to make decisions too quickly or agree to things that you are not comfortable with. If this happens, then ask your lawyer to stop, or tell someone that you trust that you are not comfortable and why. You can stop using a lawyer at any time if you are no longer happy with their service. You may still have to pay for their services until that point.



### Top tip

Ask what words mean. Sometimes lawyers use technical terms that you might not understand, so ask for an explanation.

At the end of this leaflet we explain some of the jargon and common technical words.

## **7. How do I agree with my lawyer about how to make decisions?**

Many of the problems that arise – and the complaints which arise as a result – do so because there is a breakdown in communication. This can happen if you are not clear with your lawyer about what you want or if your lawyer fails to consult you about decisions that are being made. When this happens, disappointment is almost guaranteed.

Clarity on both sides is vital. If there is something you specifically want then you need to tell your lawyer so they can take steps to make it happen. On the other hand your lawyer needs to keep you fully informed about how things are progressing, asking for your input into key decisions (checking a draft will, for instance, or going through the contract or searches if you are buying or selling a house). That way, there should be less room for dispute between you.

Sometimes it can help to have the lawyer's advice in writing so you can think about what they are saying and take some time before you go back to say what you want to happen next. Being sure about what is happening at each stage might help you feel confident and in control of the process.

But it is also essential that you listen to what your lawyer is advising you. Lawyers are the experts on the legal issues; that is why we employ them. If your lawyer believes that you are being unrealistic in your expectations or should try another course of action, you

should take that advice seriously. You should be able to have the final say, but a good lawyer will have your interests at heart and you should value their advice.

## **8. What do I need to watch out for?**

Unfortunately, sometimes lawyers do exert undue influence on people to make decisions. This happens very rarely but it is serious when it does occur.

You should not be pressured into making any decisions either by your lawyer or by anyone else. This can be hard; sometimes when emotions are running high in a family, especially around things like inheritances and selling houses, there can be competing views from different family members about what should happen. Your lawyer should be there to help you do what is right for you. If you feel pressured in any way then tell your lawyer you want to stop and think. If you need help, ask someone you trust that is removed from the issue for some advice and support.

If you do feel under pressure and think you have a problem with your lawyer, you can make a complaint to the Legal Ombudsman.

## **9. What do I do if I feel worried about what is going on?**

Using a lawyer can be a stressful experience; we use lawyers at times of change in our lives. The emotions involved can allow for poor decisions to be made. Be aware of how you are feeling and how other people

around you are feeling. Things like selling houses and writing wills can raise emotions in other people as well.

If you are worried about what is going on then tell your lawyer. If they know what your concerns are then they can try and put them right. At the end of the day, you are the client and your lawyer is there to do what you want them to do. It's never too late to share your concerns, but it is often better to say what is on your mind at an early stage, as it can mean it is easier to put right.

If your lawyer doesn't fix things after you tell them your concerns, then you can contact the Legal Ombudsman for help.



### Top tip

Lawyers shouldn't charge for looking at a complaint you have made against them. If you are unhappy with the outcome of their investigation into a complaint you've made, you can contact the Legal Ombudsman for advice.

## **10. What do I do if I have a problem with my lawyer?**

If there is a problem with your lawyer's service you should tell them. The vast majority of lawyers want to do a good job and will want to try and put it right.

If you don't get what you want, remember that you are entitled to complain. If you do complain, be clear about what you think has gone wrong and what you want done. As always, stay calm and be reasonable. But hold your ground: you are the client and it is your wishes that form the basis of the legal service.

Following our top ten tips should help reduce your chances of adding to the stresses that can come with using a legal service. However, if things do go wrong, and you can't resolve the complaint with your lawyer directly, the Legal Ombudsman may be able to help.

The Ombudsman accepts complaints from people who have used a lawyer or legal service. We will accept complaints from representatives too – and we also accept complaints from beneficiaries. This means, for instance, if someone has died and there is a problem with a will, the person who benefits from the will can bring a complaint to the Legal Ombudsman.

## Terms explained

**Capacity** – This refers to a person’s ability to perform a given task such as managing their own finances or other day to day activities. In a legal context it refers to the person’s ability to make a decision which has legal consequences.

**Code of Conduct** – These are a set of rules that outline the responsibilities and requirements for practice of an individual or organisation.

**Conditional fee agreement (CFA)** – Known as ‘no win, no fee’ arrangements. If you lose, you won’t, in general, have to pay your lawyer’s fees, but may need to pay some out of pocket expenses such as barrister’s fees or court fees.

**Contingency fees** – If your lawyer agrees to represent you under a contingency fee agreement, they will be able to claim a percentage of any money they win on your behalf plus expenses. The fee percentage must be agreed in advance.

**Disbursements** – These are expenses the lawyer has paid on your behalf, for example, fees paid to the court and barristers’ fees.

**Damages based agreements** – this is a method of funding a case where the lawyer receives a percentage of the damages recovered if you win a case. If you lose, the lawyer will receive no fees. However, in some

circumstances you may be required to pay a discounted fee. There is a maximum amount that a lawyer can charge from your damages, and this depends on the type of case. For example, commercial cases are capped at 50%, employment cases at 35% and personal injury cases at 25%.

**Executor** – This is a person who is named in a will and who has responsibility for making sure that a will is administered in accordance with the deceased's wishes. This can be a lawyer or it could be a family member or friend.

**Fixed fees** – A fixed price which may just cover your lawyer's fee or may include other elements of the service.

**Hourly rate** – Here, the lawyer is paid at an agreed hourly rate for the time they work on your case.

**Power of Attorney** – This is a legal document that authorises one or more people to handle someone else's affairs. This can be indefinite, for a limited amount of time or to deal with a specific situation.

**Probate** – the administration of a will when someone has died.

**Trust** – This is a legal arrangement in which a person holds the property (this can be land or money) of another for the benefit of a third party, called the beneficiary.

If you aren't happy with your lawyer's final response you have up to six months to bring your complaint to us. We will accept complaints up to six years from the date of act/omission, or three years from when the complainant should have known about the complaint. However, this limit has been introduced gradually starting from 6 October 2010. If the problem happened earlier than that, you must not have been aware of it before 6 October 2010.



Please call 0300 5550333 if you need help to resolve a complaint about your lawyer

**Ffoniwch 0300 555 0333 os ydych angen cymorth i helpu datrys cwyn ynglŷn â'ch cyfreithiwr.**

ਜੇ ਤੁਹਾਨੂੰ ਤੁਹਾਡੇ ਵਕੀਲ ਬਾਰੇ ਸ਼ਿਕਾਇਤ ਦਾ ਹੱਲ ਲੱਭਣ ਲਈ ਮਦਦ ਦੀ ਲੋੜ ਹੋਵੇ ਤਾਂ ਕਿਰਪਾ ਕਰਕੇ **0300 555 0333** ਫ਼ੋਨ ਕਰੋ।

**Jeśli potrzebują Państwo pomocy w rozstrzygnięciu skargi złożonej na swojego prawnika, prosimy o kontakt na numer 0300 555 0333.**

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如果你需要幫助來解決有關針對你的律師的投訴，請致電**0300 555 0333**。

اگر آپ اپنے ماہر قانون کے بارے میں کسی شکایت کو حل کرنے میں مدد چاہتے ہیں تو برائے کرم **0300 555 0333** پر فون کریں۔

আপনি যদি আপনার ল'ইমারের বিষয়ে করা কোন অভিযোগের নিষ্পত্তি করতে চান, তাহলে দয়া করে ০৩০০ ৫৫৫ ০৩৩৩ নম্বরে টেলিফোন করবেন।

**Veillez appeler le 0300 555 0333 si vous avez besoin d'aide pour résoudre une réclamation concernant votre avocat.**

જો તમારે તમારા વકીલ વિશેની ફરિયાદનો નિકાલ લાવવામાં મદદની જરૂર હોય તો કૃપયા **0300 555 0333** ઉપર ફોન કરો.

Fadlan soo wac lambarka 0300 555 0333 haddii aad u baahan tahay in lagaa caawiyo in aad xalliso cabasho aad ka qabto looyarkaaga.

## How to contact us

**Call:** You can call us on **0300 555 0333**

(Calls to the Legal Ombudsman cost the same as a normal 01 or 02 landline number, even from a mobile phone, and are recorded for training and monitoring purposes.)

We are open Monday to Friday between 8.30am and 5.30pm.

If you are calling from overseas, please call +44 121 245 3050.

For our minicom call 0300 555 1777.

**Email:** You can also email us at **[enquiries@legalombudsman.org.uk](mailto:enquiries@legalombudsman.org.uk)**

If you want to find out more about us and what we do, please visit **[www.legalombudsman.org.uk](http://www.legalombudsman.org.uk)**

**Write:** If you prefer, you can write to us at **Legal Ombudsman**

PO Box 6806  
Wolverhampton  
WV1 9WJ



**If you need information in another language or in large print, Braille or on audio CD, please get in touch.**