

# STEP CODE FOR WILL PREPARATION IN ENGLAND & WALES

## GUIDE FOR THE PUBLIC

When preparing a will, there are important factors that need to be considered to ensure your estate is passed on according to your wishes.

Many people don't thoroughly plan for the future after they are gone and often assume their possessions will simply pass automatically to their spouse or children. Often people believe their assets are too insignificant to need a formal arrangement or legal guidance. If you die without leaving a valid will, intestacy rules apply which may grant authorities permission to decide how your assets should be distributed. This means your estate may go to parties you never intended. The only certain way to ensure that the right people inherit what you intend is by making a will.

Many wills are straightforward and simple to prepare, however others are more complex and subject to unique personal circumstances that will need to be taken into account. These circumstances include second marriages, children from previous marriages or stepchildren or health care needs of surviving family members. Your will drafter, whether it be a lawyer, accountant or financial advisor, is responsible for advising you on how to prepare a will that meets your needs and ensure your estate is divided up as you see fit.

## WHAT IS THE STEP CODE FOR WILL PREPARATION IN ENGLAND & WALES (THE CODE)?

The Code comprises a set of principles that are in place to benefit you. These principles openly demonstrate the standard of transparency and service you can expect from a STEP member preparing your will.

The Code is not a procedure for how your will should be prepared, but it does provide you with a list of considerations that your will drafter should factor-in during the process. It also provides a STEP member with a framework to determine how to best meet your needs.

## HOW DOES THE CODE BENEFIT YOU?

The Code outlines a set of standards that are required of the STEP member preparing your will. A will drafter who is a member of STEP is expected to demonstrate the following:

### Openness and transparency

You can expect a STEP member preparing your will to work to meet your needs. They must remain open with you regarding their qualifications, cost implications when using their services and tax implications of your will, and provide you with a draft to approve before your will is executed.

Equally, they are obliged to take steps to ensure you are not the victim of any fraud by confirming your identity before drafting a will for your estate. They must also have no doubt in your mental capacity to make an informed decision and must not take any action that could cause a negative outcome for you should they believe you have a diminished mental capacity.

Your will drafter should hold professional indemnity insurance that is proportionate to your level of business. Remaining open and transparent provides you with certainty and demonstrates the will drafter's status as a trustworthy practitioner under the Code.

### Integrity

A will drafter is required to work with sensitive personal information when preparing your will. The STEP Code sets clear boundaries on how a will drafter must handle this information to best protect you. Under the Code, your will drafter must not share your information with other parties without your permission and must meet a series of requirements surrounding the storage of your confidential information.

Your will drafter may not benefit from the terms of your will and under the Code is expected to decline drafting your will and arrange for a qualified practitioner to assist you where there is any conflict of interest. With some exceptions, your will drafter and their immediate family should be unable to benefit from your will.

A STEP member adhering to the Code may not refuse to prepare your will based on your race nationality, gender or sexual orientation.

### Competency

You can expect your will drafter to have a sound knowledge of the main areas of law relating to wills. The Code requires your will drafter to give you advice compliant with the law and taxation regulations and on how to avoid risk associated with your will. Will drafters can be expected to manage your requests for meetings, new wills, your queries and final execution of your will promptly. A will drafter has a duty of care under the Code to deal with your matter in the time you require.

## HOW DOES THE CODE APPLY TO A STEP MEMBER PREPARING MY WILL?

The Code applies to all members of STEP in England & Wales who prepare wills for clients. If your will drafter is a STEP member, you can trust that their work will be in accordance with the Code.

## COMPLAINTS

If you feel your will drafter is not acting in accordance with the Code, you can contact STEP to lodge a complaint. All complaints are taken seriously and will be investigated and dealt with according to STEP's disciplinary processes.

You can download a formal complaint form at [www.step.org/professional-standards](http://www.step.org/professional-standards) or call **020 7340 0500** and request a form be sent to you.

For further information on the Code and on the importance of making a will, visit [www.step.org/for-the-public](http://www.step.org/for-the-public), where you can find a short video on this, in addition to explanatory leaflets and a find-a-member search facility.

## GLOSSARY OF TERMS

For clarity, below are some definitions of terms used in the Code. For a more extensive glossary of legal and technical terms used in this area, as well as informational leaflets and advice please visit [www.step.org/for-the-public](http://www.step.org/for-the-public)

### arbitrator

The person appointed to judge or decide the result of a dispute.

### asset

An item, owned by an individual, which may make up part of an inheritance or be used to pay debts.

### beneficiary

A person entitled to benefit from a will or trust. A beneficiary can have either a current/future or contingent interest.

### capacity

Having the mental capability to make decisions to make a valid will or form a valid contract.

### client

The party for which professional services are rendered.

### engrossment

The final preparation of a will or document for signing.

### estate

All the assets of a person at the time of death.

### executor

Person appointed to put into effect the terms of a will.

### exoneration

The relief from liability.

### fiduciary

One who acts on behalf of another to manage money or property with responsibility and good faith.

### indemnity insurance

An insurance policy that aims to protect business owners and employees in the event they are found to be at fault for events or actions performed on behalf of a workplace.

### inheritance tax

A one-off tax paid on the value of a deceased's estate above a set threshold.

### liability

The condition of being actually or potentially subject to a legal obligation in the event of a range of situations.

### STEP

The worldwide membership body for professionals advising on family inheritance and succession.

### testator (m); testatrix (f)

The person making a will.

### testamentary capacity

The term used to describe a person's legal and mental ability to make or alter a valid will.

### trust

A trust is the formal transfer of assets (it might be property, shares or just cash) to a small group of people (usually two or three) or to a trust company with instructions that they hold the assets for the benefit of others.

### will

A legal declaration in which a person names one or more others to manage their estate and oversee the distribution of their property as instructed upon their death.

### will drafter/will preparer

The person instructed to prepare the will on behalf of the testator.