

GLOSSARY OF TERMS

WILL, POWER OF ATTORNEY, ENDURING GUARDIANSHIP

TERM	EXPLANATION
<i>Administration</i>	The process by which the assets of a deceased person are collected and distributed to the beneficiaries if there is a Trust or Will or those entitled on intestacy if there is no Will.
<i>Administrator</i>	A person appointed by law to attend to the administration of the estate of someone who dies without a Will.
<i>Attestation Clause</i>	The statement at the end of the Will saying that it has been duly executed (signed) in the presence of witnesses. The witnesses who watch you sign your Will and who sign it after you are attesting witnesses. In some cases a special attestation clause is required, eg where the testator is blind or unable to sign his or her name.
<i>Beneficiary / Beneficiaries</i>	The person or persons you mention in your will and who you want to benefit under your Will.
<i>Codicil</i>	A document which contains an addition or change to a Will. It must comply with strict legal requirements to be a valid addition or change to a valid Will.
<i>Dependant</i>	A person who relies upon another for financial support.
<i>Enduring Guardian (when used to describe a person appointed by an adult to make decisions about that adult's personal care – as opposed to the care and control of an infant)</i>	A person you appoint to make personal or lifestyle decisions on your behalf when you are not capable of doing this for yourself. You choose which decisions you want your enduring guardian to make. These are called functions. You can direct your enduring guardian on how to carry out the functions. The appointment of an enduring guardian comes into effect when you lose capacity to make personal or lifestyle decisions.
<i>Enduring Power of Attorney</i>	A legal document appointing an attorney or attorneys who can act on your behalf in financial matters under your instruction while you have capacity or without your instruction if you lose capacity.
<i>Estate</i>	Means all of your assets - your personal property (including shares) and your real property (real estate), including any shared real estate (other than property owned as joint tenants - see further below). Your estate can include property which you acquired after the time you made your will.
<i>Executor</i>	Means the person you appoint in your Will to carry out the instructions you leave in your Will, and to do what the law requires to be done when you die. (You should speak to your chosen executor first, before naming him or her in your will). Your Executor will obtain Probate of your Will.
<i>Executrix</i>	The female equivalent of Executor.

<i>Grant of Probate</i>	A Court Order which confirms that a Will is valid and that the Executors are entitled to deal with the deceased's assets.
<i>Grant of Representation</i>	A Grant of Probate or Letters of Administration.
<i>Guardian (infant children)</i>	The person you name in your Will as the person to look after, or to decide who looks after, your children (if they are still minors) or any mentally impaired dependants, if they do not already have a guardian. (You should obtain the consent of your chosen guardian, before naming him or her in your will.)
<i>Intestate / Intestacy</i>	Dying without leaving a Will. There is an Act of Parliament which prescribes who will share in the assets of your estate if you do not leave a Will or your Will does not deal with all of your estate assets.
<i>Partial Intestacy</i>	To die with only part of an Estate covered by a Will.
<i>Joint Owners</i>	For example, property such as real estate, furniture, shares or money in the bank, jointly owned with another person or persons in one of two ways - either as a joint tenant or as a tenant in common.
<i>Joint Tenants / Tenancy</i>	Two or more persons specifically named as owning property as joint tenants. Upon the death of a joint tenant, the surviving joint tenant or tenants automatically receive the deceased tenant's interest by right of survivorship. A joint tenant cannot give away his/her interest in the property because all of the joint tenants own the property as a whole. If one dies, the whole of the property remains with the other joint tenant (or joint tenants). The deceased's interest passes to the surviving joint tenant(s) owner(s). It is not possible for joint tenants to hold unequal shares in the property.
<i>Legacy</i>	A gift of (usually) money in a Will.
<i>Letters of Administration</i>	A Court Order confirming who is entitled to deal with a deceased's property if there is no valid Will.
<i>Life Interest</i>	The grant of a right for life, usually to use or live in a residence, but it can be given in relation to most assets, e.g. to receive income off shares or an investment for life.
<i>Living Will</i>	A written document that carries a person's wishes regarding cessation of life-support or other medical treatment in certain circumstances, usually when death is expected.
<i>Minor</i>	A person who is not yet 18 years old.
<i>Personal Representative</i>	A general term referring to a person or persons who perform acts associated with the administration of a deceased estate – either as an executor or administrator.

<i>Power of Attorney</i>	An express written authority in proper form signed and witnessed according to law, by which one person appoints another to act on his or her behalf.
<i>Probate</i>	Official Court document proving that a Will is valid and authorising named executors to administer the estate of a deceased.
<i>Realty / Real Property</i>	Land and interests in land, excluding leaseholds.
<i>Remainder</i>	The capital amount or asset available in an estate after the death of a life tenant holding a life interest in such amount or asset.
<i>Residue / Residual Estate</i>	That portion of an Estate which is left over, after all debts, expenses and bequests have been paid.
<i>Revocation / Revoke</i>	When the operation of a Will, Power of Attorney or Enduring Guardianship has been stopped by the testator/grantor and has no legal effect.
<i>Right of Survivorship</i>	In a joint tenancy, the property automatically goes to the co-owner if one of the co-owners dies. A co-owner in a joint tenancy cannot give away his or her share of the property in a Will or dispose of it independently of the other joint tenant/s.
<i>Spouse</i>	Husband or wife.
<i>Succession</i>	A term used to describe the body of law relating to the passing of property on the death of a person or the actual happening of such passing or property.
<i>Tenancy in Common</i>	A type of joint ownership providing for proportionate rights of ownership of the same asset. It allows a person to sell or gift his/her share or leave it in a Will without the consent of other owners. If a person dies without a Will, any such share goes to those entitled to the estate under intestacy law.
<i>Tenants in Common</i>	Two or more landowners whose interest in land is separate and distinct from one another.
<i>Testamentary Expenses</i>	The expenses involved in obtaining a Grant of Probate of a will and administering the estate.
<i>Testate</i>	Where there is a Will.
<i>Testator</i>	The male author of a valid Will.
<i>Testatrix</i>	The female author of a valid Will.
<i>Trustee</i>	A person who holds and controls money, investments or property for the benefit of another.
<i>Will</i>	A legal declaration of a person's wishes for his or her possessions to be disposed of after death.

