



# Leave a Legacy

A simple guide to Wills  
and Legacy planning

## In this Guide

The Importance of an Islamic Will	3
Why have a Will?	4
What happens when you die without a Will?	4
Intestacy Rules	5
Frequently asked questions	6
Why should I use a Life Interest Trust in my Islamic Will?	7
Let's take an example	8
Key Islamic Inheritance Rules	12
Inheritance Tax	13
Waqf - Dedicating your wealth to help the needy	14

## The importance of an Islamic Will

The importance of an Islamic Will has been made clear in both the Quran and Sunnah.

The Prophet Muhammad (pbuh) has emphasised the importance of having a will written down in the following words:

*“It is the duty of a Muslim who has something which is to be given as a bequest not to have it for two nights without having his will written down regarding it.”* (Muslim)

Allah has made the writing down of a Will a clear prescription in the Holy Quran.

*“Prescribed for you when death approaches any one of you if he leaves wealth is that he should make a bequest for the parents and near relatives according to what is acceptable – a duty upon the righteous.”*  
(Qur'an, 2:180)

Having an Islamic Will is a religious duty for all Muslims who wish to leave this world having ensured that their outstanding duties are fulfilled.

It should be stressed that when writing a Will one should ensure it complies with Shariah law. It is also important to consult a legal expert to confirm that the Will is in accordance with the law of the land.

Arranging your Will in accordance with Islamic principles will give you peace of mind and avoid any unnecessary strain on your family after you have passed away. It will ensure your loved ones will be cared for in accordance with your wishes.

## Why have a Will?

By writing a Will, you can decide who inherits your estate on your death, ensuring your debts are covered, leaving no ambiguity for your family and loved ones.

Although everyone knows they should have a Will, it is approximated 60% of the UK adult population do not have one. Of the 40% that do have a Will, 1-in-4 do not reflect the person's wishes or are simply not valid.

A valid Will allows you to ensure that your assets are distributed according to Shariah. Legacies left in your Will are acts of Sadaqah Jariyah, the rewards of doing good deeds even after death.

**Islam places a great emphasis on making a Will.**

*"It is the duty of a Muslim who has something which is to be given as a bequest not to have it for two nights without having his will written down regarding it."* (Muslim)

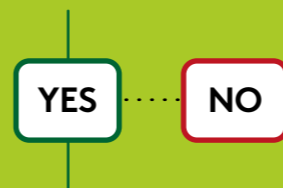
## What happens when you die without a Will?

If you do not have a Will, you die intestate\* and your estate is distributed according to the rules set by law.

These rules do not cater for your specific wishes and can mean family members may benefit when you would prefer them not to do so.

In some circumstances your assets may go to distant relatives you have never met or even pass to the Crown if you have no living relatives. The number of those dying intestate is rising rapidly.

Are you legally married and have no children?



Everything goes to the spouse

N.B. Marriage has to be registered, an Islamic Nikah on its own is not recognised as registered marriage.



Are you legally married and have children?



Spouse takes all personal chattels\*, £250,000 of whole estate and half of remainder.

Half of remainder equally divided between children.



\*An item of property other than freehold land, including tangible goods (chattels personal) and leasehold interests (chattels real).

## Intestacy Rules – Deaths after 1 October 2014



Is there no spouse/civil partner but there are children?



Everything passes equally to the children.



If no spouse and no children then passes equally between surviving relatives accordingly, with those down the list taking everything.

1. Parents
2. Brothers & sisters (or their children)
3. Half brothers & sisters (or their children)
4. Grandparents
5. Uncles & aunts
6. Half uncles & aunts
7. The Crown

4 \*A person who has died without having made a will.

## Frequently Asked Questions

### What is a Will?

A legal document setting out what is to happen to your estate when you die. It is a legal declaration providing the transfer of your estate to designated beneficiaries.

### Who can make a Will?

Anyone mentally capable over 18 years old.

### When does my Will become legal?

Once signed and witnessed correctly it is legally valid. It is important to ensure that a will is signed properly, many Wills are incorrectly signed and therefore nullified.

### Who can be my witnesses?

Anyone mentally capable over 18 years old who is not mentioned in the Will or blood relation of someone named.

### What is a Guardian?

A nominated individual in the Will who will look after children under 18 years old.

### Do I need to appoint Guardians?

If you have children under the age of 18, you should appoint a Guardian. You can only do this in a Will.

### What is an Executor?

A person named in the Will appointed to carry out your wishes.

### Who can be my Executors?

Anyone mentally capable over 18 years old. Usually a family member or trusted friend. It is best to appoint a trusted person who you feel could do the job. Best to speak to them first; you should have a minimum of one and maximum of four.

### Can I leave a gift to Muslim Aid in my Will?

By remembering Muslim Aid in your Will you can help us continue the life saving work we have been doing for over 35 years

across the globe. An Islamic Will allows you to gift up to 1/3rd of the estate to charity. Charitable legacies may reduce your Inheritance Tax liability from 40% to 36%.

### Can I leave gifts to people without a will?

No, you need a Will to leave gifts to friends or charity.

### Can a Will save me Inheritance Tax?

Yes, however only if you use your reliefs and exemptions properly. A standard Islamic Will may cause you more Inheritance Tax than you would have paid without one. It is important to get advice and ensure that your Islamic Will is drafted with the Spousal Exemption in mind. See the Inheritance Tax Section, page 13.

## Why should I use a Life Interest Trust in my Islamic Will?

### It is important to have a grasp of how UK inheritance laws work and the exemptions and reliefs available on your estate.

There are two bands prior to Inheritance Tax being paid; the Nil Rate Band and the Residential Nil Rate Band. Therefore, the less assets you have on death, the less likely you will have Inheritance Tax to due.

Currently, each person has up to £475,000 in bands prior to paying tax. Anything above that threshold is taxed at 40%.

For example, Mr A dies and leaves his £500,000 estate to his daughter (including his residential property). There would be 40% tax on the £25,000 outside the bands and therefore £10,000 of Inheritance Tax (IHT) due.

There are also certain exemptions and reliefs. Arguably the most valuable IHT exemption is the Spousal Exemption.

Assets gifted between spouses during their lifetime and on death are exempt from IHT, assuming the recipient is UK domiciled.

### So, why and how does this effect your Islamic Will?

Islamic Inheritance in accordance with the Qur'an and Sunnah does not reflect the exemptions and reliefs available in the UK.

The Qur'an specifically details the fixed inheritance shares and that a Muslim should not deprive an heir of their rightful inheritance.

The spousal exemption in UK tax law does not take into account that on first death a Muslim must leave his or her assets

to fixed beneficiaries which includes the surviving spouse but not solely them. Generally in the UK, everything is left to the surviving spouse. It leaves Muslims with potential Inheritance Tax bill on first death of a spouse.

### Will this make my Islamic Will more expensive?

Yes, by using trusts, it makes it more expensive. However, you will save tax.

## Let's take an example

Mr A and Mrs A have decided to take Standard Islamic Wills. They have two children, a son and one daughter. Their joint estate is worth £1.2million, but £800,000 is in Mr A's sole name.

The inheritance, based on surviving relatives, is as follows:

BENEFICIARY	BENEFICIARY AMOUNT
Mrs A	1/8th
Son	7/16th
Daughter	7/32th
Father	7/32th
Inheritance Tax APPLICABLE	VALUE AT DATE OF DEATH
Spousal Exemption of 1/8th of the estate	£100,000
Estate Value	£700,000
Nil Rate Band	(£325,000)
Residential Nil Rate Band	(£150,000)
Taxable Estate	£225,000
Inheritance Tax	@40%
<b>Inheritance Tax Due</b>	<b>£90,000</b>

Husband dies with Wife, one son and one daughter with Standard Islamic Will.



Husband dies  
Assets of £800,000

- 1/8th of Husband's Estate to Wife
- Receives Spousal Exemption on £100,000
- 7/8th of Husband's Estate to Wife
- Uses £325,000 of Nil Rate Band
- Uses £150,000 of Residential Nil Rate Band
- Inheritance Tax on £225,000 at 40%
- Inheritance Tax of £90,000 on first death

\*Information correct, May 2019

\*Information correct, May 2019



# Let's look at Mr A's example, having placed a life interest trust in the Will.

The inheritance, based on surviving relatives, is as follows:

Inheritance Tax APPLICABLE	VALUE AT DATE OF DEATH
Spousal Exemption of 1/8th of the estate	£800,000
Taxable Estate	£0
Inheritance Tax	@40%
<b>Inheritance Tax Due</b>	<b>£0</b>

# Husband dies with Wife, one son and one daughter with Standard Islamic Will.

Husband dies  
Assets of £800,000

Trust



Ultimate beneficiaries are 1/8th to wife and 7/8th to children

- As surviving wife gets life interest over the assets. They receive spousal exemption
- Inheritance Tax is £0 on first death

- On second death, wife has transferrable Nil Rate Bands from husband so has currently £650,000 Nil Rate Band and £300,000 Residential Nil Rate Band

## Key Islamic Inheritance Rules

Inheritance is considered as an integral part of Shariah Law. Muslims inherit from one another as stated in the Quran (4:7).

A simple example of husband and wife ruling is as follows:

HUSBAND GIVES		WIFE GIVES	
Mother	1/6 (1/4 if no children)	Mother	1/6 (1/4 if no children)
Father	1/6 (1/2 if no children)	Father	1/6 (1/2 if no children)
Wife	1/8 (1/4 if no children)	Husband	1/2 (1/4 if no children)
Son	2 Shares	Son	2 Shares
Daughter	1 Share	Daughter	1 Share

Sons get twice the amount that daughters receive of the residual estate. However, distribution can be changed in accordance with Shariah with the agreement of all beneficiaries and sign off by an Islamic scholar.

## Inheritance Tax

Inheritance Tax is a tax on the estate (property money and possessions) of someone who has died.

The standard Inheritance Tax is payable at 40% on assets above the combined Nil Rate Band (NRB) currently £325,000 per individual and Residence Nil Rate Band (RNRB) £175,000 per individual from April 2020. Certain conditions need to be satisfied in order to benefit from the RNRB, therefore for the purpose of the examples used in this booklet, we will only apply the allowance available under NRB. You are advised to seek professional advice as to the application of the allowances on your personal estate.

### Tax can be levied on death if either:

- The value of your estate is below the tax threshold or
- You leave everything to your spouse or civil partner, a charity or a community organisation.

### How can tax be reduced?

1. Married couples can double the NRB to £650,000
2. No Inheritance Tax liability on transfers to Spouse on death (at odd's with the Shari'ah)
3. Gifts of more than 7 years, are fully exempt from tax
4. Gifts to charities on death are exempt from tax

5. If more than 10% of the net estate is given to charity, IHT rate can be reduced to 36%

Only registered marriages are recognised for this purpose. It is advisable to ensure that the mosque which conducts a nikah, is registered for the solemnisation of marriage, under the 1948 Marriage Act.

### The legal process upon the death of an individual in the UK

- Individual dies
- Obtain valuation of estate
- Pay Inheritance Tax within six months of death
- Executor presents Will, estate summary and tax receipt in a Court
- Executor makes a declaration under Oath
- Probate is granted
- Estate accessed and distributed

## Waqf - Dedicating your wealth to help the needy

Waqf is an Islamic endowment of property to be held in trust and used for a charitable or religious purpose.

When 'Umar ibn al-Khattab acquired a piece of land, he asked the Prophet (pbuh), how best to use it, The Prophet (pbuh) said,

***“Keep it as an endowment to be used for charitable purposes.”***

The profits of this land were then donated to the poor and others who were in need.

Over the centuries, this tradition has continued – land and buildings have frequently been given as Waqf, and used to build schools, hospitals and mosques, amongst other functions to benefit the community.

## Waqf donations in action

Your Waqf donations will help us continue to carry out the work we have been doing since our inception in 1985.

**For over 35 years we have been serving humanity around the world, helping those in the greatest need.**

We have been saving and changing the lives of orphans, the elderly and the vulnerable affected by disaster, war and poverty.



Last year alone, through our emergency and long-term support projects **we were able to help over 4 million people in Africa, Asia, Europe and the Middle East.**

**We gave food, nourishment and relief to 178,967 people and their families!**



**Over 450,00 people around the world were able to drink, cook, wash and sustain themselves with life-giving, clean water.**

**We gave 1 million vulnerable children and young people access to schooling.**



**31,271 people received livelihood support,** helping them to step out of poverty by providing them with Shariah compliant loans and cash grants as well as giving them the skills and assistance they need to achieve economic independence.



# Leave a Legacy with Muslim Aid

*“It is the duty of a Muslim who has something which is to be given as a bequest not to have it for two nights without having his will written down regarding it.”*

(Muslim)

If you would like more information, contact us to speak to a dedicated member of staff.

Simply call **020 7377 4200**  
or email **[wills@muslimaid.org](mailto:wills@muslimaid.org)**

