

A top-down view of a desk with a spiral-bound notebook, a fountain pen, an ink bottle, and a ballpoint pen. The notebook is open, and the fountain pen is resting on it. The ink bottle is labeled 'Black India Ink'. The ballpoint pen is silver and black. The background is a light-colored wooden surface.

# Will Preparation

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PEACE  
INCLUSION

BUILDING BRIDGES : PROMOTING PEACE

# Contents

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- The Certainty of Death
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  - Do we know what we own?
  - Importance of clearing debts
  - Missed acts of worship
  - Inheritance tax considerations
  - FAQs
  - Further Reading

# What we will cover on another day, iA

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- The Final Illness
- Legal paperwork after death
- Ghusl – Religious bath
- Kafn – The shroud
- Dafn – The Burial process
- The Sunnah of Ta'ziyat
- Isaal ath-Thawab
- Our objective is to keep this presentation as focused and simple as possible. For a more detailed elucidation of the entire post-death process, please contact Maulana Ebrahim Noor, Islamic Academy of Coventry.
- **Disclaimer: The contents herein are for information purposes only, and professional advice should be obtained in case of query. I take no liability stemming from use of this presentation.**

# How I've used words

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- Heir/ inheritor – a relative who Shari'ah has fixed a portion for after death
- Non-heir – somebody who does not automatically inherit after death, be they a relative or not
- Taraka – assets that remain after paying funeral expenses and debts

# The certainty of death



- { كُلُّ نَفْسٍ ذَائِقَةُ الْمَوْتِ ۗ وَإِنَّمَا تُوَفَّقُونَ أُجُورَكُمْ يَوْمَ الْقِيَامَةِ ۗ فَمَنْ زُحْزِحَ عَنِ النَّارِ وَأُدْخِلَ الْجَنَّةَ فَقَدْ فَازَ ۗ وَمَا الْحَيَاةُ الدُّنْيَا إِلَّا مَتَاعُ الْغُرُورِ }
- { قُلْ إِنَّ الْمَوْتَ الَّذِي تَفِرُّونَ مِنْهُ فَإِنَّهُ مُلَاقِيكُمْ ۗ ثُمَّ تُرَدُّونَ إِلَىٰ عَالِمِ الْغَيْبِ وَالشَّهَادَةِ فَيُنَبِّئُكُمْ بِمَا كُنْتُمْ تَعْمَلُونَ }
- { قُلْ يَتَوَفَّاكُم مَّلَكُ الْمَوْتِ الَّذِي وُكِّلَ بِكُمْ ثُمَّ إِلَىٰ رَبِّكُمْ تُرْجَعُونَ }
- { أَفَحَسِبْتُمْ أَنَّمَا خَلَقْنَاكُمْ عَبَثًا وَأَنَّكُمْ إِلَيْنَا لَا تُرْجَعُونَ }

# Righting wrongs before Death

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يا أيها الناس ! توبوا إلى الله قبل أن تموتوا ، وبادروا بالأعمال الصالحة قبل أن تُشغَلوا (ابن ماجة)

- Every night we sleep, the probability of waking up the next morning is 50/50, in the balance
- Our priority should be to make up for our shortfalls before we pass away, knowing the date and manner of our death is unknown to us
- There are 2 main priorities:
  - 1) *Huquq-Allah* – The rights of Allah – our salah, saum, etc. must be made up before we pass away. If they seem like an insurmountable amount, then make a plan and ask Allah to create ease for you.
  - 2) *Huquq al-Ibaad* – The rights of the people – resolve your disputes with every person in your life. Do not allow anybody an opportunity to raise a finger in front of Allah – be it financial, family, social, etc.

# The rights of the people



- As a general rule, Allah does not forgive those who humans who do not earn their fellow humans' forgiveness (for valid reasons) – therefore, straighten all your affairs with others
- In a hadith, Sayyiduna Abu Huraira radhi-Allahu anhu reported: The Messenger of Allah, sall-Allahu alayhi wa-sallam, said, “*Do you know who is bankrupt?*” They said, “The one without money or goods is bankrupt.” The Prophet said, “*Verily, the bankrupt of my nation are those who come on the Day of Resurrection with prayers, fasting, and charity, but also with insults, slander, consuming wealth, shedding blood, and beating others. The oppressed will each be given from his good deeds. If his good deeds run out before justice is fulfilled, then their sins will be cast upon him and he will be thrown into the Hellfire.*” [Sahih Muslim]

# Priorities after death for family

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- Tell Us Once – gov.uk
- Make a list of companies/orgs to inform
- Value Estate - <https://www.gov.uk/valuing-estate-of-someone-who-died>
- Start probate £300 (written printed Will present) or administration process (intestate - no will) – Online
- Contact Mufti/ Imam for inheritance shares once executor/administrator is granted probate
- **Executor task list is available on shared OneDrive folder**

<https://www.citizensadvice.org.uk/family/death-and-wills/dealing-with-the-financial-affairs-of-someone-who-has-died>

# AFTER DEATH DISTRIBUTION

**£UNLIMITED**

**FUNERAL COSTS**  
EXCEPT IF COVERED  
**DEBTS**  
**UNPAID MAHR**  
**UNPAID BILLS**

**1**

**MAX 1/3**

**DONATIONS**  
**UNPAID ZAKAT**  
**NON-HEIRS**  
**FIDYA**

**2**

**MIN 2/3**

**ISLAMIC INHERITANCE**  
DICTATED BY SHARIAT  
CANNOT BE CHANGED

**3**

**NOTE: IF FUNERAL COSTS AND DEBTS ARE EQUAL TO, OR MORE THAN THE TOTAL VALUE OF ASSETS, THEN NO INHERITANCE WILL BE DISTRIBUTED**

# A summary of post-death financial tasks

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- Payment of funeral expenses:
  - Funeral directors, if there are no community volunteer groups to take charge of administrative tasks
  - Cost of kafn (shroud), if the deceased does not already have one ready
  - Cost of ghusl (religious bath), if the local Masjid charge a fee
  - Cost of grave and batons etc – to be arranged with the cemetery
- Clearance of debts, including unpaid bills and mahr (dowry) – first cost
- Execution of the voluntary Will and fidya for missed acts of worship – up to 1/3<sup>rd</sup> of estate
- Distribution of inheritance according to Islamic shares – remaining 2/3<sup>rds</sup> – **you have no control over this**

All of the above costs must come from the estate of the deceased, except if family and friends themselves decide to arrange for payment. This is not an obligation, but a very rewarding act of goodness.

# Inheritance in Islam



- Dictated to us by the Qur'an and the Sunnah
- No hierarchy of those who are due to inherit, unlike English law
- Closest relatives will inherit. Only in their absence, will further distant relatives inherit automatically
- The written Will actually only makes up a MAXIMUM of 1/3 of your estate
- The other 2/3 are fixed, for your family, which you cannot bequest to anybody else.
- The 2/3 share to inheritors is distributed AFTER the Will is fulfilled.
- General principles, which can change with every unique case are contained within 14 verses of Surat al-Nisa

# The beauty of Shari'ah: from the eyes of a non-Muslims

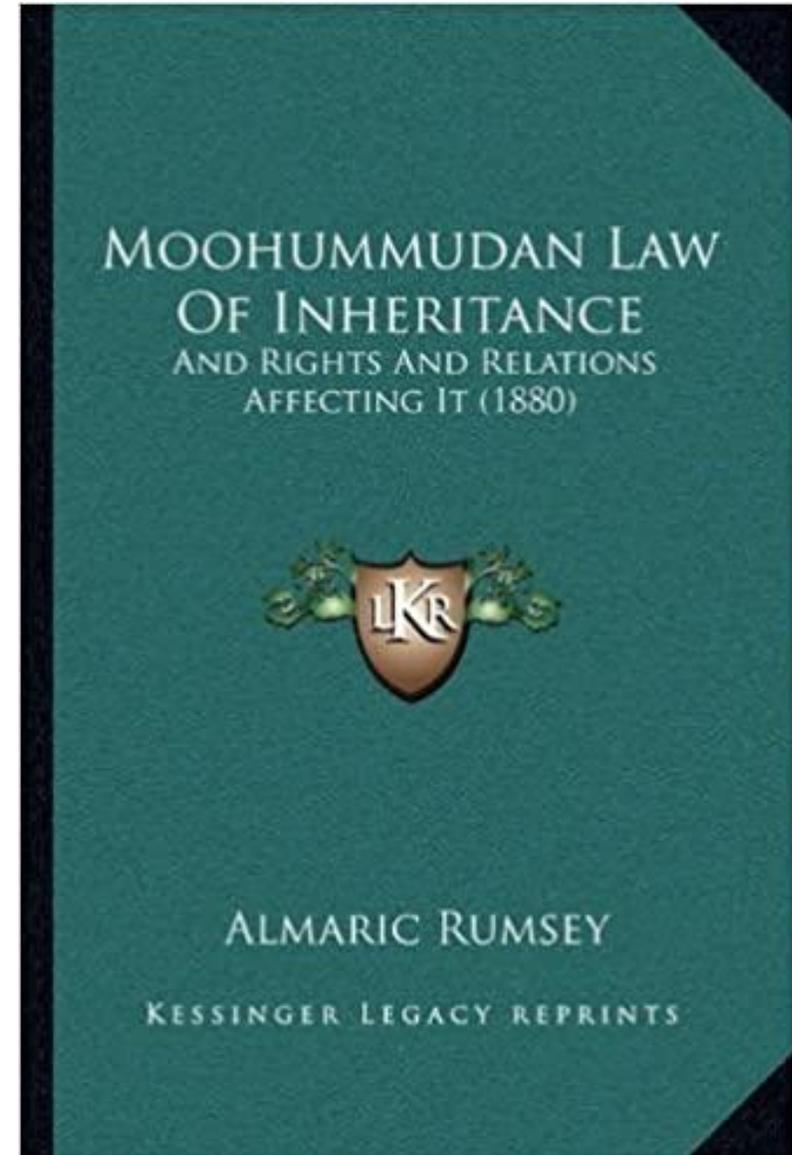
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- **“The divine justness and equitability of the Islamic laws of inheritance have been correctly appreciated by many non-Muslim scholars such as Professor Almaric Rumsey (1825-1899) of King's College, London, the author of many works on the subject of the Muslim law of inheritance and a barrister-at-law, who stated that the Muslim law of inheritance, "comprises beyond question the most refined and elaborate system of rules for the devolution of property that is known to the civilised world.”**

Rumsey, 1880, *A. Moohummudan Law of Inheritance*

- **“In these provisions we find ample attention paid to the interests of all those whom nature places in the first rank of our affections; and indeed it is difficult to conceive any system containing rules more strictly just and equitable.”**

Sir William Hay MacNaghten – senior civil servant of the British Raj



# Will-Writing in the Qur'an

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• (كُتِبَ عَلَيْكُمْ إِذَا حَضَرَ أَحَدُكُمْ الْمَوْتُ إِنْ تَرَكَ خَيْرًا الْوَصِيَّةُ لِلْوَالِدَيْنِ وَالْأَقْرَبِينَ بِالْمَعْرُوفِ ۖ حَقًّا عَلَى الْمُتَّقِينَ )

- *“Enjoined upon 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.”*
- The rule of making inheritors beneficiaries of a will was made Mansukh by a lengthy pair of verses in Surat al-Nisa, however, the importance of writing a Will remains.

# Will-writing in the Hadiths

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• ما حقُّ امرئٍ مسلمٍ له شيءٌ يوحيه فيه . بيتٌ ثلاثَ ليالٍ إلا ووصيتهُ عنده مكتوبةٌ .

قال عبدُاللهِ بنُ عمرَ : ما مرت عليّ ليلةٌ منذ سمعتُ رسولَ اللهِ صلى اللهُ عليهِ وسلَّمَ قال ذلك ، إلا وعندي وصيتي "

- Sidi Abdullah bin ‘Umar (RA) narrated that Allah’s Messenger ﷺ said, ***“It is not permissible for any Muslim who has something to will to stay for two nights without having his last will and testament written and kept ready with him.”*** Sidi Abdullah bin Umar RA continues: A night did not pass since hearing this hadith from that Allah’s Messenger ﷺ except that I had my will written besides me. [Sahih al-Bukhari; Sahih Muslim ]

# Hadith about being fair

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• عن أبي هريرة رضي الله عنه، أن النبي صلى الله عليه وسلم قال: إن الرجل ليعمل والمرأة بطاعة الله ستين سنة، ثم يحضرهما الموت، فيضاران في الوصية فتجب لهما النار، ثم قرأ أبو هريرة رضي الله عنه: مِنْ بَعْدِ وَصِيَّةٍ يُوصَى بِهَا أَوْ دَيْنٍ غَيْرِ مُضَارٍّ وَصِيَّةً مِنَ اللَّهِ [النساء:12]. إلى قوله تعالى: ذلك الفوز العظيم . رواه أبو داود والترمذي وقال: حديث حسن صحيح غريب.

• Sidi Abu Huraira RA narrates from Allah's Messenger ﷺ: ***"A man may do good deeds for sixty years but if he acts unjustly when he leaves his last testament causing harm to others, then the Fire becomes wajib for him"***

# A variation of this Hadith

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• "إن الرجل أو المرأة ليعملان بطاعة الله سبعين سنة ثم يحضر الموت فيجوران في الوصية فيختم لهما بشر وإن الرجل أو المرأة ليعملان سبعين سنة بمعصية الله فيحضرهما الموت فيعدلان في الوصية فيختم لهما بخاتمة خير"

- ***"A man may do good deeds for seventy years but if he acts unjustly when he leaves his last testament, the wickedness of his deed will be sealed upon him, and he will enter the Fire. If, (on the other hand), a man acts wickedly for seventy years but is just in his last will and testament, the goodness of his deed will be sealed upon him, and he will enter the Garden."*** [Ahmad and Ibn Majah]

# Last-minute wills

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- Wills bequeathed or written on your death bed are NOT binding by Shari'ah
- Any gifts given on the death bed are also NOT binding by Shari'ah
- Any gifts to heirs would need approval of all remaining adult heirs after the person's death. Approval prior to death is of no consequence.
- Therefore, it is imperative we prepare a Will beforehand, especially in the current climate

عن أبي هريرة - رضي الله عنه - قال: جاء رجل إلى النبي ﷺ فقال: يا رسول الله، أيُّ الصدقة أعظم أجرًا؟ قال: ((أن تصدق وأنت صحيح شحيح تخشى الفقر وتأمل الغنى، ولا تُمهل حتى إذا بلغت الحلقوم قلت: لفلان كذا، ولفلان كذا، وقد كان لفلان))؛ متفق عليه

***“That you give charity while you are healthy, feeling greedy, fearing poverty, and hoping to be rich. Do not delay giving until you are on your deathbed, then say give to such a person. It already belongs to that person.”***

# Talking about inheritance

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- Research Brewin Dolphin conducted with Opinium suggests that many families' failure to plan for IHT is mostly due to reticence.
  - More than a third of people (36%) don't feel comfortable talking about their legacy
  - One in seven (14%) said they haven't discussed the subject with loved ones because they don't like talking about death
  - A health scare (52%), a near death experience (46%) and getting older (46%) are most likely to prompt people to talk about this subject
  - After their partner and spouse (32%), people feel most comfortable talking to their mother (8%) or a financial adviser (8%) in the first instance.
- If you want to pass on as much of your wealth as possible, talking about inheritance is a vital first step. Once you have started the discussion, creating an estate plan to suit your needs does not have to be difficult. This guide explains the options available and how we can help you establish your own succession plan.

# Why have an Islamic Will?



Reason	Comment
Personal: Control Over Your Wishes	Decide exactly <b>who gets what</b> , rather than leaving it to the default legal system. Choose <b>guardians for your children</b> , rather than letting the courts decide. Ensure <b>specific sentimental items</b> go to the right people.
Financial: Minimise IHT	Can <b>reduce your IHT liability</b> and leave more for your loved ones. Set up <b>trusts</b> for vulnerable beneficiaries/ children to protect assets and income. Leave charitable gifts in your will to reduce the taxable value of your estate
Islamic: Fulfil Your Duty to Allah	Without a will, your estate will <b>not</b> be distributed according to <b>Sharī'ah</b> — even if you had an Islamic nikāḥ. Wills allow you to make arrangements to cover debts (incl. missed zakāt or ḥajj) and <b>Prevent sin</b> from wealth going to non-Islamic heirs
Family: Protect Others	Provide for <b>stepchildren, foster children, or Islamic spouses</b> who won't inherit under UK law unless specified. Ensure <b>blended families</b> are treated with fairness
Emotional: Leave Peace, Not Problems	Reduce family conflict, delays and legal battles by leaving clear instructions. Offer your loved ones <b>emotional closure</b> by expressing final wishes, personal messages, or du'ās in your will.

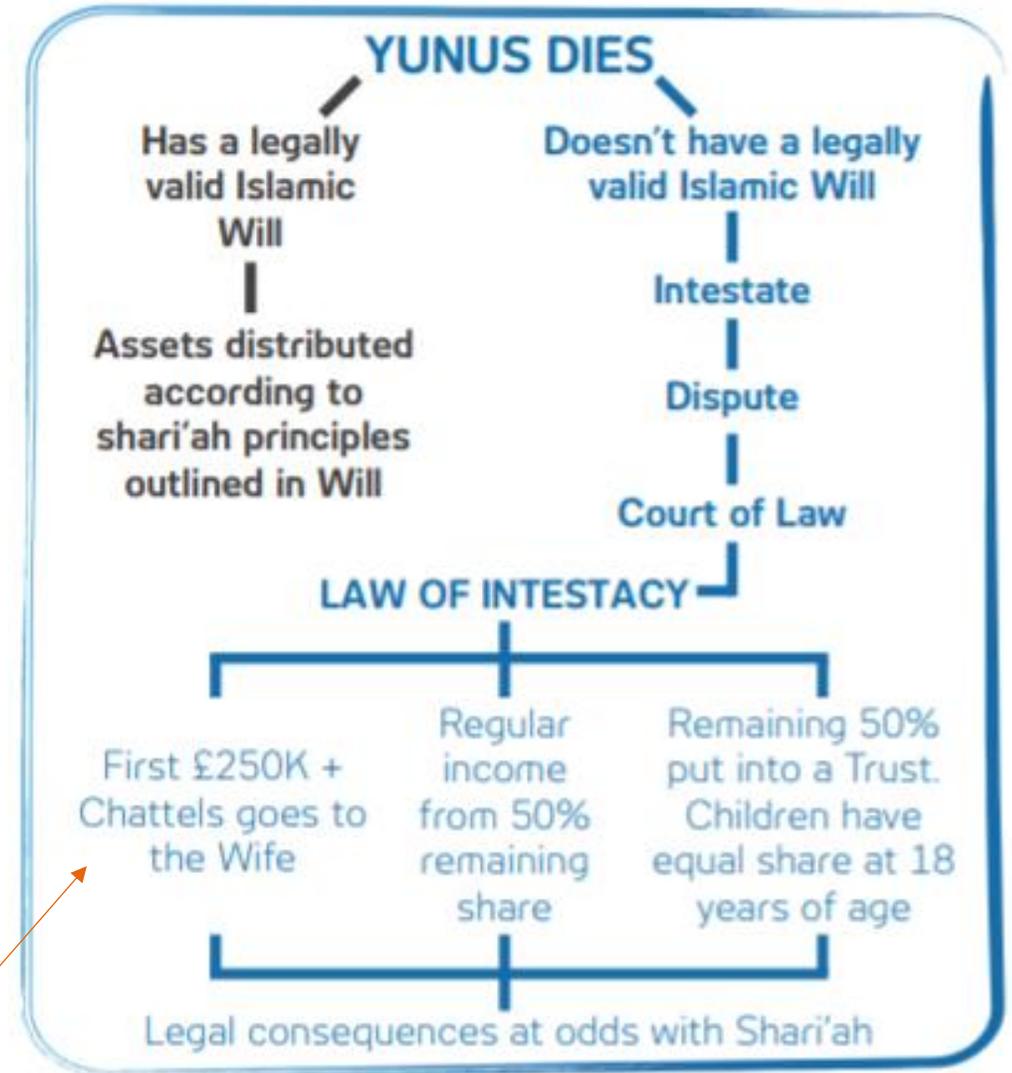
# Will vs Intestacy (no will)



Will	Intestacy
Can choose how/where you're buried	Next of kin will determine
Can provide Islamic Guidance to children	No Islamic Guidance post-death
Give orders to distribute wealth Islamically by appointing Executors (up to 4) or Trustees (minimum 2) who you trust	Legal spouse will automatically receive personal possessions and the first £322,000. Children inherit 50/50 after £322,000. Parents receive nothing if spouse and children alive.
Can choose charities/causes/friends to donate to	No donations
Foster/Step/Adopted children will receive share	No guarantees – legal process required
Non-legal (Nikah-only) spouse inherits	Non-legal spouse will not inherit automatically
Family are aware of your assets/liabilities	Family do not know
Minimise inheritance tax (IHT)	No wriggle-room for IHT loopholes
Choose who deals with your estate	Administrators appointed (next of kin)

# English Law compliance

- A Will must be legally valid so that it can be enforced by the courts if the need arises. Given Shari'ah is not recognised under English Law, the easiest way to enforce Shari'ah is to place wealth "under trust", but only after death has occurred, not prior to death.
- A trust is a distinct legal entity recognised under English law. It is controlled by trustees on behalf of beneficiaries (recipients), who would typically be the family members. Specific trustees can be nominated within the Will, who would be legally required to follow Shari'ah principles when distributing assets to the beneficiaries
- If you do not leave a Will and there is a dispute regarding your inheritance, the English courts would ultimately decide who gets what, according to the 'laws of intestacy', which do not follow Shari'ah principles.
- If a person is intestate, the probate court will appoint an administrator (grant of representation) to distribute the estate according to English law. Of course, it will not be according to Shariah, which may cause disputes in the family.
- Those who are concerned about a family dispute over inheritance should prioritise the setting up of a Will and refer to a Mufti and a solicitor for advice.



Updated £322k

# The Wills Act 1837

## Section 9

No will is valid unless:

- 1. It is in writing, and signed by the testator, or by some other person in his presence and by his direction** (e.g. if the testator is paralysed)
- 2. It appears that the testator intended by his signature to give effect to the will.**
- 3. The signature is made or acknowledged by the testator in the presence of two or more witnesses present at the time.** (witnesses cannot be beneficiaries)
- 4. Each witness either:**
  - attests and signs the will; or
  - acknowledges his signature, in the presence of the testator (but not normally in the presence of any other witnesses), but no form of attestation shall be necessary.

## Section 15

- **Witnesses cannot be beneficiaries, nor their spouses**

# Importance of registering your Nikah

- If you do not have a will, your Islamic nikah spouse will receive nothing, unless you make a post-death dependency application, which can be time-consuming and £££
- If Nikahs are legally registered in a different country, they can be recognised in the UK for inheritance purposes. No need for a re-registration, if you have documents at hand.

Scenario	Legal Marriage?	If no will	If Islamic Will	Implications
Spouse only No children	✓ Yes	Spouse gets 100%	Wife: 1/4, Husband: 1/2	UK law overrides all; Islamic heirs get nothing unless will present
	✗ Nikāḥ only	Spouse gets 0%	Wife: 1/4, Husband: 1/2	Spouse must apply under 1975 Act; costly & uncertain
Spouse + children	✓ Yes	Spouse gets: All personal items, £322k, and 50% of remainder	Wife: 1/8, Husband: 1/4	Major mismatch; children's share differs significantly
	✗ Nikāḥ only	Spouse gets 0%	Wife: 1/8, Husband: 1/4	Spouse may be left destitute without Islamic will or legal action

# The Islamic Will template

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- The process of the will:
  1. Identification
  2. Revocation
  3. Declaration of faith
  4. Islamic guidance
  5. Funeral wishes
  6. Missed acts of worship
  7. Guardianship
  8. Appointment of executors and trustees
  9. Residuary estate
  10. Trusts of residue
  11. Standard provisions
  12. Witness Testimony

# This template is useful to EVERYBODY

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- However, I would recommend you visit a reliable shari'a conscious solicitor if
  - Your assets are worth more than £325k as a single person without a property or £500k with a property; or £650k as a married couple, or £1m if you have a property
  - You jointly own multiple assets with another person, e.g. jointly owned house with spouse
  - You have complex financial circumstances (including business assets, ambiguous ownership, life policies, properties overseas, etc)
  - You do not live in the UK
  - You have assets outside of the UK

# Identification, Revocation

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Name: State your Full Name, Address and Date of Birth clearly at the top of the document, as it is shown in your legal docs. You may wish to add your DOB and NI number, so there is no doubt who you are

Revocation: Before writing this Will, you declare that every previous Will of yours is revoked, annulled and cancelled. This includes anything verbal

# Declaration of Faith



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- Declaration of Faith: To ensure your Will is distributed according to Islamic law and you are given Islamic rites post-demise, you must declare in writing that you follow the Islamic faith.
  - In this part of the Will, it is also a wise idea to follow the Sunnah of the Prophets (May Allah send His choicest peace and salutations upon them all) by encouraging your family members to remain steadfast upon the Deen, hold onto the Qur'an and Sunnah firmly, and discourage them from engaging in any haram activities.

# Nasiha to family members

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This is my counsel to my relatives and friends, my Muslim brothers and sisters, and all those who remain after me: that they strive to be true Muslims and that they submit to their Creator, may He be exalted, and worship Him as He alone is to be worshipped, fear Him and love Him and His Prophet Muḥammad ﷺ with a complete love that is rivalled by nothing besides them. Let them obey Him and hold fast to His Sharī'ah. Let them spread and firmly establish His religion of Islām and let them die only in a state of complete submission to His will.

I remind them that no man and no woman dies before their time. The exact duration of each life span is precisely determined before we are born, by the All-Powerful Creator, may He be exalted. Death is tragic only for the one who lived out their life in self-deception without submitting to the Creator and preparing for the final return to Him. So, do not preoccupy yourselves with my death, but instead make the proper preparations for your own. Maintain patience and self-composure, as the religion of Islām requires. Islām permits male and female relatives to mourn for up to three days. However, a widow is required to observe mourning for the duration of her 'iddah (period of waiting). Wailing and excessive lamentation is forbidden by the Creator, may He be exalted.

Finally, I ask all my relatives, friends and all others, whether they choose to believe as I believed or not to honour my beliefs: I ask them to honour my instructions and wishes in this document and not to seek to alter or obstruct it in any way. Rather, let them see that I am buried as I have asked to be buried, and let my assets be divided as I have instructed them to be divided.

# Funeral wishes

- You should also make explicitly clear that you wish to be given Islamic rites of the deceased, including ghusl, kafn, janazah salah and burial in the closest Muslim cemetery.
- **This is especially important for people with non-Muslim family members**
- Also, important if you know your family will demand the body is transferred to another country, which would include embalmment with alcohol
- If you wish for a particular family member or Alim to lead your janaza, add it here

# Arranging an Islamic Burial

- If you live amongst non-Muslim family members who you fear will not accept and Islamic burial, then you should prepare and sign a Statutory Declaration, which declares your faith and preference to be buried Islamically. It will be legally binding when kept alongside your Will.

A Practical Guide to Funeral Rites in Islām

**APPENDIX A – STATUTORY DECLARATION**

I   
of

Solemnly and sincerely declare as follows:

- I am a Muslim and following my demise my body **SHALL** be prepared for burial in keeping with Islamic Law that is based upon the Holy Qur'ān and the Sunnah of the Prophet Muḥammad ﷺ.
- I do not give permission for my body or any of my remains thereof to be subjected for autopsy. Such wish is to be enforced by my next of kin and executors and I understand that my wish shall be subject to legal obligations that would have to be fulfilled.
- My body or any remains thereof **SHALL NOT** be embalmed or cremated.
- The preparation of my body is to be performed by Muslims of the same sex in strict compliance with Islamic Shari'ah (Law) & practise.
- There is to be no viewing of my remains after my body has been prepared for burial and the Janāzah Ṣalāh has been performed.
- There **SHALL BE NO OTHER** religious service for me other than the Janāzah Ṣalāh and the traditional Islamic Prayer by my graveside.
- The interment of my body must also meet the Islamic requirement that I (my body) face in the direction of the Holy Ka'bah in Makkah, Saudi Arabia.
- Burial shall take place without delay following my death
- In the event of my death, the next of kin or other Muslim as set out in the schedule below are to be contacted immediately. They shall have complete authority along with any executors that I may appoint to complete all my funeral arrangements that shall be in accordance with Islamic Law and practice.

A Practical Guide to Funeral Rites in Islām

**Schedule**

Boxes 1 & 4 can be completed by the local Burial Committee.  
Boxes 2 & 3 should be completed by the person.

1.	Enter Details of Local Burial Committee if Applicable:
2.	Next of Kin:
3.	Local Mosque Details:
4.	Other Emergency Telephone Numbers:

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declaration Act 1835:

Declared by me:  Signed:  Date:

Witnessed by:  Signed:  Date:

Witnessed by:  Signed:  Date:

Copy 1: Local Burial Committee	Copy 2: Next of Kin	Copy 3: Hospital/Hospice/Care home

# Guardianship

- For those who are alone with children under-18, they must choose to make another adult the guardian of their children to avoid custody disputes.
- By default, if your spouse/children's other parent is alive at the time of your death, they will become guardians (except in rare cases, e.g. imprisonment)
- Both spouses should complete this section, in the event (la qadar Allah) that they were to pass away simultaneously – it could lead to a fight between grandparents/ uncles and aunts
- Ensure the guardians agree to guardianship before naming them
- In addition to the primary adult, they should also include a secondary adult, in case the primary adult passes away before them, and more if they see fit

# Appointing Executors and Trustees

- These are the individuals you trust to fulfil your Will and distribute your estate after your demise.
- 2/3/4 advisable – you won't find all 4 to be rotten
- The same person usually wears both hats
- The role of an executor is to administer your estate in accordance with the terms of your Will – they must be over-18
- The role of a trustee is to administer any trust arising under the terms of your Will, where relevant, that maintain your estate.
- You can appoint more than two trustees, but all have equal power
- Make sure you can trust them to fulfil the Islamic obligations; ideally trustworthy family members, or individuals who **know each other**
- For those who are chosen to be Executors/ Trustees, remember, Allah is watching and has issued a stark warning against those who may wish to manipulate the contents of a Will:

فَمَنْ بَدَّلَهُ بَعْدَمَا سَمِعَهُ فَإِنَّمَا إِثْمُهُ عَلَى الَّذِينَ يُبَدِّلُونَهُ إِنَّ اللَّهَ سَمِيعٌ عَلِيمٌ

*“And whomsoever (responsible for the Will) changes whatever they have heard (or read) , then the sin is on those who have changed it. Indeed, Allah is the all-hearing, the all-knowing.”*

# Executorship

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- Pick at least 2, maximum 4
- Only select a person who is willing to take it on
- Find people who are incredibly diligent and persistent
- They must accept that people may become upset
- They should know each other to make discussions easier
- They should be aware of family dynamics
- We have prepared a list of tasks every executor must do
- **Islamically, a person cannot ‘resign’ as an executor**

# The executor's roles

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**The executor(s) of your Will, will be under a duty to:**

- act honestly and in good faith;
- not make personal gains from your estate unless specifically allowed in your will to do so; and
- not put themselves in a position where their interests conflict with those of your estate.

**Some of the tasks they will be required to undertake are:**

- interpreting your will;
- drawing up schedules of assets and liabilities;
- contacting all asset holders and creditors;
- preparing draft accounts and arranging for any inheritance tax and debts to be paid;
- drafting an application for the grant of probate + making an application to the Probate Registry (court authenticates will);
- communicating with all beneficiaries; and
- distributing the estate in accordance with the will.

Visit <https://www.hughjames.com/blog/choosing-an-executor-who-do-you-trust-with-all-your-worldly-goods> for further reading

# Assets and Liabilities (Later)

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- Assets – what you own or are owed
- Liabilities – what you owe others
- In our will template, we only use this paragraph to reference a separate attached document – The Assets and Liabilities Identifier (later)
- Ensure this is clearly labelled and attached to the will
- **Some people choose to add details of their assets and liabilities to their Will, but this means the Will needs to be constantly updated and re-signed**

# Financial summary

<b>INITIAL COSTS</b>	<b>MAX 1/3 OF REMAINDER</b>	<b>FINAL REMAINDER MINIMUM 2/3</b>
Funeral Costs	Charitable donations	As Allah commands it
Debts to others	Outstanding zakat	
Unpaid mahr	Fidya for salah/ saum if mentioned by deceased	
	Gifts to non-heirs	

# Donations to charities/ causes

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- Needs to be explicitly mentioned which charity it is
- If there are alternative charities you are open to, allow the executors freedom to donate where they wish, by mentioning it in your Will
- Always a good idea to give to charities who you trust, and particularly those you have worked for, as atonement for any wrongdoing whilst in service
- Best form of Sadaqa Jariya is providing water
- **DONATING TO UK REGISTERED CHARITIES – Anything left to a charity is free of IHT; if 10% of estate is given to a charity of choice, then total IHT on rest of estate reduced from 40% to 36%**
- You cannot bequeath anything for your heir – so if you intend to donate to an heir's charity with the intention that they receive a larger portion, it is reprehensible, although the executor can enact the Will

# Inheritors cannot receive more than their Islamic share

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"إن الله قد أعطى كل ذي حق حقه فلا وصية للوارث"

*"Allah has appointed for everyone who has a right what is due to him, and no bequest must be made to an heir" [Abu Dawud]*

- A testator cannot add an additional share for any heir into their Will, to protect the interests of the other inheritors
- If they leave more than the Islamic share for an heir, it will be disregarded
- All of the heir will receive their shares according to Shari'ah
- The testator can only allow non-heirs to financially benefit from his/her will
- If you feel a certain heir deserves more because they served you well, you must fulfil this wish before death by gifting them from your wealth

# “But I want to leave more for one child!”

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- If you wish to give more to an Islamic heir of yours, then it must be done in your lifetime, not through your Will
- However, the reason for preferential treatment must be valid and fair, for example, one child has a specific need/ disability/ debt which renders them in greater need of your wealth.
- Without a valid reason, Islam demands that we treat our dependents fairly and equally, especially our children:

عَنْ ابْنِ عَبَّاسٍ، عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: «سَوُّوا بَيْنَ أَوْلَادِكُمْ فِي الْعَطِيَّةِ فَلَوْ كُنْتُ مُفَضِّلًا أَحَدًا لَفَضَّلْتُ النِّسَاءَ» (المعجم الكبير للطبراني)

*‘Be equal amongst your children when giving gifts, and if I were to give preference to anyone, I would give it to the women.’*

- **If any qualifying heir receives a gift in lifetime, this will not affect their right to inherit their entitled share after death.**

# Donating to non-heirs – max 1/3

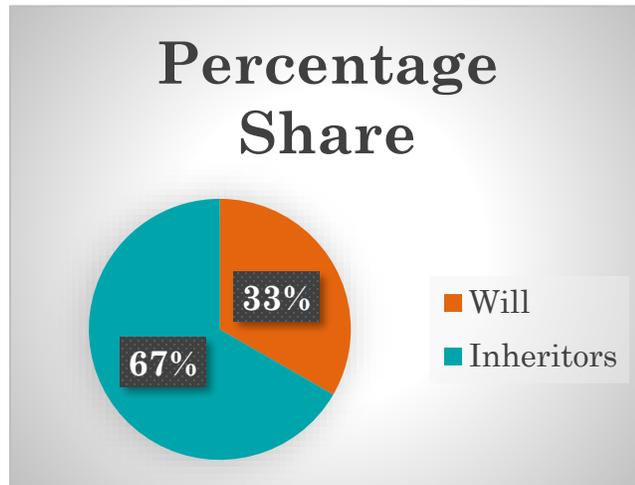
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- A person can include in their Will their desire to donate to any halal charitable cause, charity or non-heir
- The maximum they can donate is one-third of what remains after immediate costs and debts
- If the donation is to a haram cause, then the Executors have the Islamic right to refrain from donating it to that cause
- The best form of donation is to build a water supply or any other charitable endeavour for the most needy and vulnerable which serve as a Sadaqa Jariyah
- You can also choose to share the one-third amongst family members who will NOT inherit, for example, brothers/ sisters/ uncles/ aunts/ nephews/ nieces/ step-children/ grandchildren – it is noble to keep a portion for these individuals esp if they're needy
- If you donate more than a third, it will be limited to one-third, except if EVERY heir voluntarily forgoes their right to allow your request to be fulfilled.

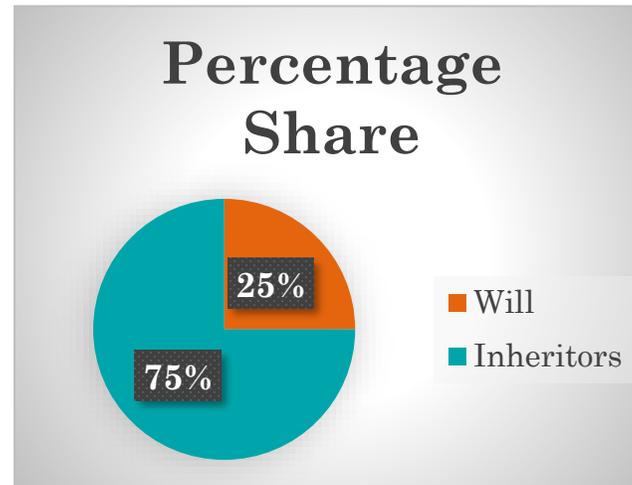
# Inheritors only receive 2/3<sup>rd</sup>?

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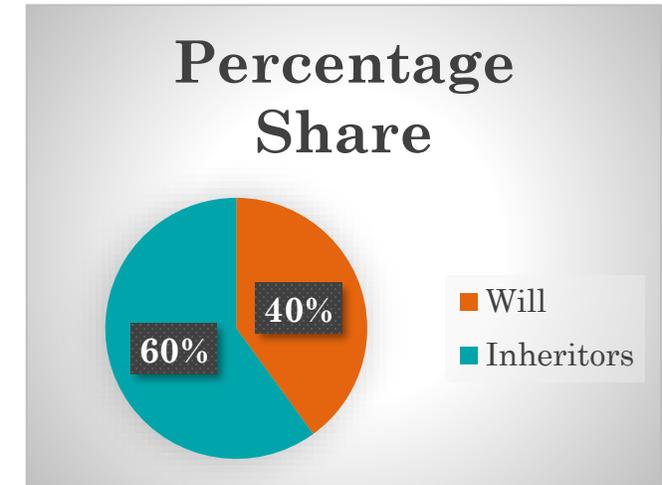
- 1/3 is the maximum the size of your *wasiyya* can be – not a penny more.
- 2/3 is a minimum your inheritors will receive



**Valid**



**Valid**



**INVALID**

# AFTER DEATH DISTRIBUTION

**£UNLIMITED**

**FUNERAL COSTS**  
EXCEPT IF COVERED  
**DEBTS**  
**UNPAID MAHR**  
**UNPAID BILLS**

**1**

**MAX 1/3**

**DONATIONS**  
**UNPAID ZAKAT**  
**NON-HEIRS**  
**FIDYA**

**2**

**MIN 2/3**

**ISLAMIC INHERITANCE**  
DICTATED BY SHARIAT  
CANNOT BE CHANGED

**3**

**NOTE: IF FUNERAL COSTS AND DEBTS ARE EQUAL TO, OR MORE THAN THE TOTAL VALUE OF ASSETS, THEN NO INHERITANCE WILL BE DISTRIBUTED**

# The story of Sd. Sa'd b. Abi Waqqas RA

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• ثبت عن النبي صلى الله عليه وسلم أنه قال لسعد بن أبي وقاص رضي الله عنه لما سأله سعد وهو مريض: هل يتصدق بثلثي ماله؟ فقال له النبي صلى الله عليه وسلم: (لا)، فقال سعد: فالثلث، فقال عليه الصلاة والسلام: (الثلث، والثلث كثير؛ إنك إن تذر ورثتك أغنياء، خير من أن تذرهم عالة يتكفون الناس) - متفق عليه

- Narrated Sidi Sa'd ibn Abi Waqqas RA: "I was stricken by an ailment that led me to the verge of death. The Prophet came to pay me a visit. I said, "O Allah's Messenger ﷺ! I have much property and no heir except my single daughter. Shall I give two-thirds of my property in charity?" He said, "No." I said, "Half of it?" He said, "No." I said, "One-third of it?" He said, "You may do so, though one-third is also too much, for it is better for you to leave your offspring wealthy than to leave them poor, asking others for help..." [Sahih al-Bukhari, Sahih Muslim, Muwatta Imam Malik, Tirmidhi, Abu Dawud and Ibn Majah]

# Missed acts of worship

- Before death, you should prioritise making up for your missed acts of worship, starting from now!
- If a person has any missed fard acts of worship remaining at the time of death, they should note it clearly in their will
- For every salah/saum missed, your family should pay fidya on your behalf – explicit in the Qur'an (Surat al-Baqarah)
- If Haj was obligatory on you, but you failed to perform it, then make mention of it and ask for your Executor to arrange Haj al-Badal, which will be performed with (maximum) 1/3 of your wealth on your behalf.
- Similar is the case with Zakat and Qurbani – if it is unpaid, the amount should be mentioned clearly
- **IF THE DECEASED DOES NOT LEAVE A WASIYYA FOR MISSED SAUM/ HAJ, THE FAMILY ARE NOT OBLIGED TO PAY FIDYA**

# I'll be left bankrupt!



- If so, complete your *Qadha* before you pass away, including Witr. Start now! **Fidya is not an alternative to *Qadha*.**
- Anything remaining should be written in your will, although this is for hope of forgiveness due to severity of the sin
- If the amount you have bequeathed for missed salahs exceeds 1/3 of your remaining wealth and will leave your inheritors at a great disadvantage, then they are only obliged to pay for the 1/3 limit. Anything additional would be based on goodwill on their part
- If the family do want to pay beyond 1/3 limit, a *heela* mentioned by Allama Shaami is thus: find a pauper, pay him the *fidya* one salah at a time and ask him to return it to you. This way, the family would have fulfilled the obligation of *fidya* on behalf of the deceased from their own goodwill, without losing out on their fair portion of inheritance.
- <https://www.islamweb.net/ar/fatwa/113410/>

# Residuary Estate – *taraka*



- The Residuary Estate is the wealth left behind by the deceased after all of the expenses/ debts/ Will bequests are paid:
- Payment of funeral expenses:
  - Funeral directors, if there are no community volunteer groups to take charge of administrative tasks
  - Cost of kafn (shroud), if the deceased does not already have one ready
  - Cost of ghusl (religious bath), if the local Masjid charge a fee
  - Cost of grave and planks etc – to be arranged with the cemetery
- Clearance of debts, including unpaid bills and mahr (dowry)
- Execution of the will (within 1/3)
- Paying Fidya for missed acts of worship or outstanding zakat (within 1/3)

**Assets - debts - post death costs = residue to split 1/3 - 2/3**

# In English now?



- “Everything I still own after my funeral and debts are paid, is called my **residue**.  
I’ve asked my trustees to manage it, and if it’s not already in money form, they can sell it and turn it into cash — but only when they think the time is right.  
That leftover estate, which I call the **Trust Fund**, will then be divided up according to Islamic rules, which I explain in the next part of the will.”

# Trusts of Residue



- Trustees are then trusted to distribute the remaining portion of the estate according to Islamic shares (minimum 2/3s)
- In our Will template, I have left it to the Executors to distribute it Islamically without explicitly mentioning the names of the inheritors. This is so we don't have to constantly update the Will when I have a baby, or if someone dies
- Others prefer to explicitly state what each person will receive (usually spouse, parents, children) – this will mean you update the will when any auto-inheritors (heirs) die

# Standard Provisions - STEP

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- The Will incorporates the standard provisions of the **Society of Trust and Estate Practitioners (STEP)**. This is a simple way of providing the Executors and Trustees with a number of technical and routine provisions that they may need in order to administer the estate efficiently and properly.
- Importantly, it also allows your Trustees to have regard to Islamic principles of investment. It is common to include in your Will.: *'The standard provisions of the Society of Trusts and Estate Practitioners (1<sup>st</sup> or 2<sup>nd</sup> edition) shall apply, except where is contravenes Shari'ah.'*
- This declaration allows your Trustees to (especially if you have young children due to inherit):
  - Invest your monies to maximize the wealth for the beneficiaries, and to manage its distribution
  - To manage your property as though they are the owner, and accumulate income generated on the estate
  - To purchase property jointly with another
  - To carry on any business that you have left behind

<https://www.bequeathed.org/wills/what-to-include-in-a-will/society-of-trust-and-estate-practitioners>

**The template I have prepared contains mention of Standard Provisions (2<sup>nd</sup> edition)**

# In English now?



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- **In Summary — What Clause 13 Really Says:**

- “I’ve given my trustees the full professional toolkit they need to do their job well.
  - I’ve asked them to follow Islamic investment principles.
  - I’ve said don’t follow automatic British inheritance rules that go against Islam,
  - And I’ve told them they don’t have to get insurance if it doesn’t seem necessary — and they won’t be blamed for that.”
- **Extra Tip:** If you’re writing a will, these kinds of clauses are really helpful. They give your trustees enough flexibility to manage your estate well, while still respecting Islamic principles — and keeping things legal in the UK.

# Signature of Testator and 2 witnesses

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## 9. APPOINTMENT OF EXECUTORS AND TRUSTEES

Signed by me on the (DD/MM/YY)		Signed by: (Signature)	
Signature of first witness		Signature of second witness	
Name:		Name:	
Address:		Address:	
Occupation:		Occupation	

SIGNED by the said legator (write legator's full name)

.....

in our presence and then by us in 'his/her' presence

# Signature of Testator and 2 witnesses

---

- Your Will should be signed in the presence of the 2 independent witnesses
- They should not be from the beneficiaries, nor their spouses
- Everybody should sign it within the same Majlis, when they are all together
- If it is signed in different Majlis', the testimony will be **void**
- If a witness were to pass away before you, you should find a new witness and all should re-sign the document to ensure it is up-to-date. This is best practice
- To help avoid this, choose witnesses who you think might outlive you!

# Summary



- 
- A will is vital to ensure your wishes are executed and your family does not fall into unnecessary financial dispute
  - Priority after death is to pay for funeral costs, clear debts and fulfil the Will
  - A Will should include Islamic guidance as well as financial guidance
  - You cannot give an Islamic heir extra through your Will
  - When distributing wealth to non-inheritors or charities, it cannot exceed one-third of what remains after expenses
  - The Will must be signed by the Testator and 2 witnesses
  - Attached to the will must be an asset and finances identifier which states how much wealth/ estate the deceased owns
  - If you live amongst non-Muslims and fear they will not bury you Islamically, you should sign a statutory declaration of burial

# Storing and Updating your will

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## Storing your will

- Once you have written your will, it will need to be printed.
- Make copies
- You can keep your will at home, in a safe deposit box, with a solicitor or with a Probate Service. If you store it with a registered probate service, family members can search for the will online at the UK [Probate service search](#).
- You should tell your executor (the person you've chosen to carry out your will), close friend or relative where your will is stored. Remember, make sure you can fully trust them.

## Updating your will:

- If you want to update your will, you need to make an official alteration (called a 'codicil') or make a new will.
- If you make any changes to your will, you must follow the same signing and witnessing process.

# Changing a Will – ‘Deed of Variation’

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- **Is it possible for the inheritors to change their shares?**
- Yes, but it is slightly more complex than that
  - Islamically, all heirs, without pressure or coercion, must agree to forego a portion of their share, and pass it on to another inheritor. At times, people are forced into giving up their right of inheritance, which is clearly wrong and sinful.
  - Legally, all inheritors must together sign a document called a ‘Deed of Variation’ within 2 years of death. It is a legal document that modifies the terms of a will (or the rules of intestacy if there's no will) after the testator's death.

<https://www.gov.uk/alter-a-will-after-a-death>

# Session 2

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Dealing with ASSETS and  
LIABILITIES

# The Testator's Asset identifier

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- What it includes:
  - Finances
    - Cash
    - Bank accounts
    - Shares/ Stocks
    - ISA/ Bonds/ Gilts
    - Pensions
    - Other
  - Property – real estate
  - Jewellery
  - Money loaned to others
  - Assets loaned to others
  - Money borrowed from others
  - Assets borrowed from others
  - Bequests to charities/ other persons

# The... what?

- The identifier document should be attached to the Will
- It states the types of assets, their quantity and value, and how much wealth the deceased has, including cash, money in bank, shares, ISAs, pensions, bonds, jewellery, and money others owe the deceased.
- It must also clearly state to whom any money is owed, and its value, including debts, loans, unpaid bills etc.
- The identifier document must clearly state if there is sole or joint ownership of the assets
- The document must be constantly updated with the updated financial details of the deceased
- This must also be signed, dated and kept alongside the Will
- We will go through the template together

# Do you know what you own?

<https://islamicportal.co.uk/do-you-know-what-you-own/>

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- Ask yourself – who owns your house, the family car, your mobile, the family computer, the household furniture
- Why do we need to know? – if ownership is not clear, disputes arise when assets are distributed, because others may lay claim to having a share in one of their assets, e.g. a car, a business, a house etc. How would you calculate zakat?
- Why don't we discuss it? – Because the thought of death and separation terrifies us. We don't want to bring up the dreaded M word for fear of being accused of being greedy or not trusting family members. The assumption is that the spouse will inherit all, an ideal which is steeped in ignorance of Shari'ah law.
- What now? – identify all your assets and liabilities in a document/ spreadsheet. Learn to have difficult conversations.
- Ask yourself - If you die now, have you left all the necessary information in one document that clarifies what you own, leaves no ambiguity for the heirs and leaves no room for dispute? If not, act now.
- Ownership is only until the deathbed

# Joint Assets



- Many couples choose to own their homes or other assets in joint names, usually held under a “joint tenancy”. This means upon the death of a partner, ownership of the asset will automatically pass entirely to the surviving partner, regardless of what is stated in the Will. Though it is legally tax-protected, it goes against Shari‘ah principles, **if the surviving spouse assumes ownership of the property and leaves out rightful heirs.**
- Changing jointly owned assets to “tenants in common” resolves this issue by allowing the Will to determine who inherits from the share of the partner who has passed. **If the house and estate together are valued more than £500,000, it can create issues with IHT**
- The Land Registry website contains step-by-step instructions on how to make this change ([landregistry.gov.uk](http://landregistry.gov.uk)). For those uncertain as to how to proceed, we suggest you take legal advice on this matter.
- The best way forward, legally and Islamically, is to have it as ‘joint tenancy’ (for IHT purposes), but to also explicitly state that the surviving spouse must distribute the value of the house to rightful heirs. This can cause issues for families who are property-rich, cash-poor.

# Relatives

- 
- It is important to state who your immediate family members are, e.g.
    - Parents
    - Siblings
    - Children
    - Grandparents
    - Grandchildren
    - Nephews
  - This will help the local Imam/ Alim/ Mufti calculate who is worth how much
  - You must ensure that before death, you emphasise that every person should receive the fair dues according to Shari'ah

# Liabilities to be deducted (Islamically)

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1. Immediate post-death tasks directly involving the deceased will also be deducted:
  - Funeral costs, including shroud, ghusl, land plot etc
  - Cost of probate application (£300 in 2025)
2. Upcoming payment due on immediate household bills
3. Debts owed to others

Note re mortgage: Banks/ Building Societies offer a maximum 12-month 'grace' period. Monthly payments frozen, but interest due

# Non-deductible liabilities (British Law)

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- Costs that cannot be reduced from the deceased's estate when calculating the total value of estate for probate and IHT
  - Court and Legal fees
  - Post-death bills
  - Probate fees (also called "grant of probate fees" or "application costs") are considered **administrative expenses** and **not debts owed by the deceased**. HMRC doesn't allow them to be subtracted from the estate when calculating how much Inheritance Tax is due.

# Household Bills

- Unpaid Household bills are considered a debt, and will be deducted from the deceased's assets, e.g.
  - Rent, or mortgage
  - Gas
  - Electric
  - Water
  - Broadband
  - Council tax
  - Telephone
- TV
- Mobile Phone contract
- Car insurance
- Breakdown cover
- Car Road Tax
- House insurance
- Charity Direct debits
- Unpaid Zakat/ Qurbani
- **(Unpaid fidya for missed fasts/ salah – from 1/3)**



# Debts

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- Every person should aim to clear their debts
- Also, if your family has enough, encourage them to give respite to others who might owe you
- If you have a fixed amount to donate to charity, you could include it here

# Debts – the dreaded D word

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- You MUST keep a paper trail of every debt that you owe others, and let your family members know
- Islamically, and even HMRC, a record is very important, because it will be deducted from your potential IHT payments.
- If your family do not know, they should make an announcement at the funeral for anybody who is owed anything

كُنَّا جُلُوسًا عِنْدَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَرَفَعَ رَأْسَهُ إِلَى السَّمَاءِ ، ثُمَّ وَضَعَ رَاحَتَهُ عَلَى جَبْهَتِهِ ثُمَّ قَالَ : سُبْحَانَ اللَّهِ ! مَاذَا نُزِلَ مِنَ التَّشْدِيدِ ؟ فَسَكَتْنَا وَفَزِعْنَا ، فَلَمَّا كَانَ مِنَ الْغَدِ سَأَلْتُهُ : يَا رَسُولَ اللَّهِ ، مَا هَذَا التَّشْدِيدُ الَّذِي نُزِلَ ؟ فَقَالَ : وَالَّذِي نَفْسِي بِيَدِهِ ! لَوْ أَنَّ رَجُلًا قُتِلَ فِي سَبِيلِ اللَّهِ ثُمَّ أُحْيِيَ ، ثُمَّ قُتِلَ ، ثُمَّ أُحْيِيَ ، ثُمَّ قُتِلَ ، وَعَلَيْهِ دَيْنٌ مَا دَخَلَ الْجَنَّةَ حَتَّى يُقْضَى عَنْهُ دَيْنُهُ (النسائي)

- Nabi ﷺ refused to perform the Janaza of the person who had a debt on his shoulders and had not arranged for its payment

# “I can't repay their debts”

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- You should be upfront with the creditors and request some additional time to pay the debt. If you ask them for respite, it is likely you will receive it
- If you are approached by somebody claiming the deceased owed them money, but there is neither a paper trail, nor are their reliable witnesses, nor can the person take an oath that they are owed the money, you are not obliged to pay it.
- If they do however have the above, you should make arrangements immediately, or arrange a deadline
- One hadith mentions, that the deceased's body is kept in suspension until the debt is repaid or arranged for, or not! See hadith below:

وَعَنْ أَبِي هُرَيْرَةَ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ : ( نَفْسُ الْمُؤْمِنِ مُعَلَّقَةٌ بِدَيْنِهِ حَتَّى يُقْضَى عَنْهُ ) رواه الترمذي - قال المباركفوري في "تحفة الأحوذى" (4/164) : " قوله : ( نفس المؤمن معلقة ) قال السيوطي : أي محبوسة عن مقامها الكريم . وقال العراقي : أي أمرها موقوف لا حكم لها بنجاة ولا هلاك حتى ينظر هل يقضى ما عليها من الدين أم لا "

# I am owed! A claim against Estate

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- **Can be made by disgruntled family members – claims must be made within 6 months of grant of probate/administration**
- Section 27 Notice – allows you to check for claims, or advertise for claims, against beneficiaries, not the estate
- Bankruptcy check – money will not be given to claimants who have claimed bankruptcy

# How to deal with a debt you are owed

- If you are owed money by a deceased person, which you can do without, and their family does not have the means to repay it, it would be a great act of goodness to forgive the debt, or at least offer more time for them to pay. See the ayat from Surat al-Baqara and subsequent hadiths:

وَإِنْ كَانَ ذُو عُسْرَةٍ فَنَظِرَةٌ إِلَىٰ مَيْسَرَةٍ ۗ وَأَنْ تَصَدَّقُوا خَيْرٌ لَّكُمْ ۖ إِنْ كُنْتُمْ تَعْلَمُونَ

*“And if he is a pauper, then allow deferral until prosperity, and that you forgo it as Sadaqa, then this is much better for you, if only you knew”*

مَنْ نَفَسَ عَنْ غَرِيمِهِ أَوْ مَحَا عَنْهُ، كَانَ فِي ظِلِّ الْعَرْشِ يَوْمَ الْقِيَامَةِ (مسلم)

*Whoever removes a debt from a person, or wipes it off, he will be in the shade of Allah’s throne on Judgement Day [Muslim]*

عن حذيفة قال: قال رسول الله ﷺ أُنِيَ اللَّهُ بِعَبْدٍ مِنْ عِبِيدِهِ يَوْمَ الْقِيَامَةِ قَالَ: مَاذَا عَمِلْتَ لِي فِي الدُّنْيَا؟ فَقَالَ: مَا عَمِلْتُ لَكَ يَا رَبِّ مِثْقَالَ ذَرَّةٍ فِي الدُّنْيَا أَرْجُوكَ بِهَا قَاهَا ثَلَاثَ مَرَّاتٍ قَالَ الْعَبْدُ عِنْدَ آخِرِهَا: يَا رَبِّ إِنَّكَ كُنْتَ أَعْطَيْتَنِي فَضْلَ مَالٍ، وَكُنْتُ رَجُلًا أَبَايَعُ النَّاسَ، وَكَانَ مِنْ خُلُقِي الْجَوَّازُ، فَكُنْتُ أَيْسَرُ عَلَى الْمَوْسِرِ وَأَنْظِرُ الْمُعْسِرَ، قَالَ: فَيَقُولُ اللَّهُ عَزَّوَجَلَّ: أَنَا أَحَقُّ مَنْ يُيَسِّرُ، ادْخُلِ الْجَنَّةَ (متفق عليه بالفاظ أخرى)

- **Avoid becoming a means of a person being deprived from his place in Jannah.**

# Protecting your estate – prepare well

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- **Vulnerable heirs** – illness, addictions, or young age can lead to mismanagement.
- **Double Inheritance Tax** – assets taxed again when passed to next generation.
- **Divorce** – ex-spouse could take part of the inheritance.
- **Bankruptcy** – creditors can seize inherited money.
- **Loss of benefits** – means-tested benefits (e.g. disability, UC) can stop if heir inherits directly.
- **Immediate IHT bill** – up to 40% tax if not left to a legally married spouse.
- **Family disputes** – delays, legal battles, and unfair distribution.
- **Outdated will** – changes in family or assets not reflected.
- **Lost will** – intestacy rules apply, ignoring Shariah wishes.
- **A WELL-WRITTEN WILL CAN PROTECT YOU – CONTACT A SOLICITOR IF YOU FINANCES OR FAMILY DYNAMIC ARE COMPLEX**

# Inheritance Tax Considerations

Inheritance tax (IHT) is payable at a rate of 40% on all wealth, including the family home, valued over £325,000 for a single person, or £650,000 for married couples, **allowing transfer of the unused element of their IHT-free allowance** to their living spouse when they die.

All wealth transferred to a spouse on death is exempt from inheritance tax, provided the marriage is legally recognised in the UK (please note, a nikah conducted in the UK would not be recognised as a valid marriage if the nikah was not subsequently registered) – see a Mufti and Solicitor

Wealth transferred to anyone else on death is only exempt up to £325,000. This limit can vary and is applicable for the tax year 2025.

**The basic DIY Will template is therefore not suitable for those who have wealth over £325,000 (or £650,000 for a married couple). Please speak to a solicitor if so, and regarding the 'direct descendant' tax-free allowance for main residence - 'residence nil rate band' (RNRB), which allows for another £175k exemption per person for any property owned**

Sajid is single, and has the following assets:

1. House valued at £250,000
2. Personal Savings of £150,000

Does Sajid have to pay Inheritance Tax?  
The answer is yes, as explained in the table below:

Estate Value	£400,000
Less Allowance	£325,000
Net Estate	£75,000
Tax Liability @ 40%	£30,000

**Please note** that if Sajid was married, both he and his wife could combine their allowances, resulting in inheritance tax only being paid on assets valued over £650,000.

# Other IHT considerations

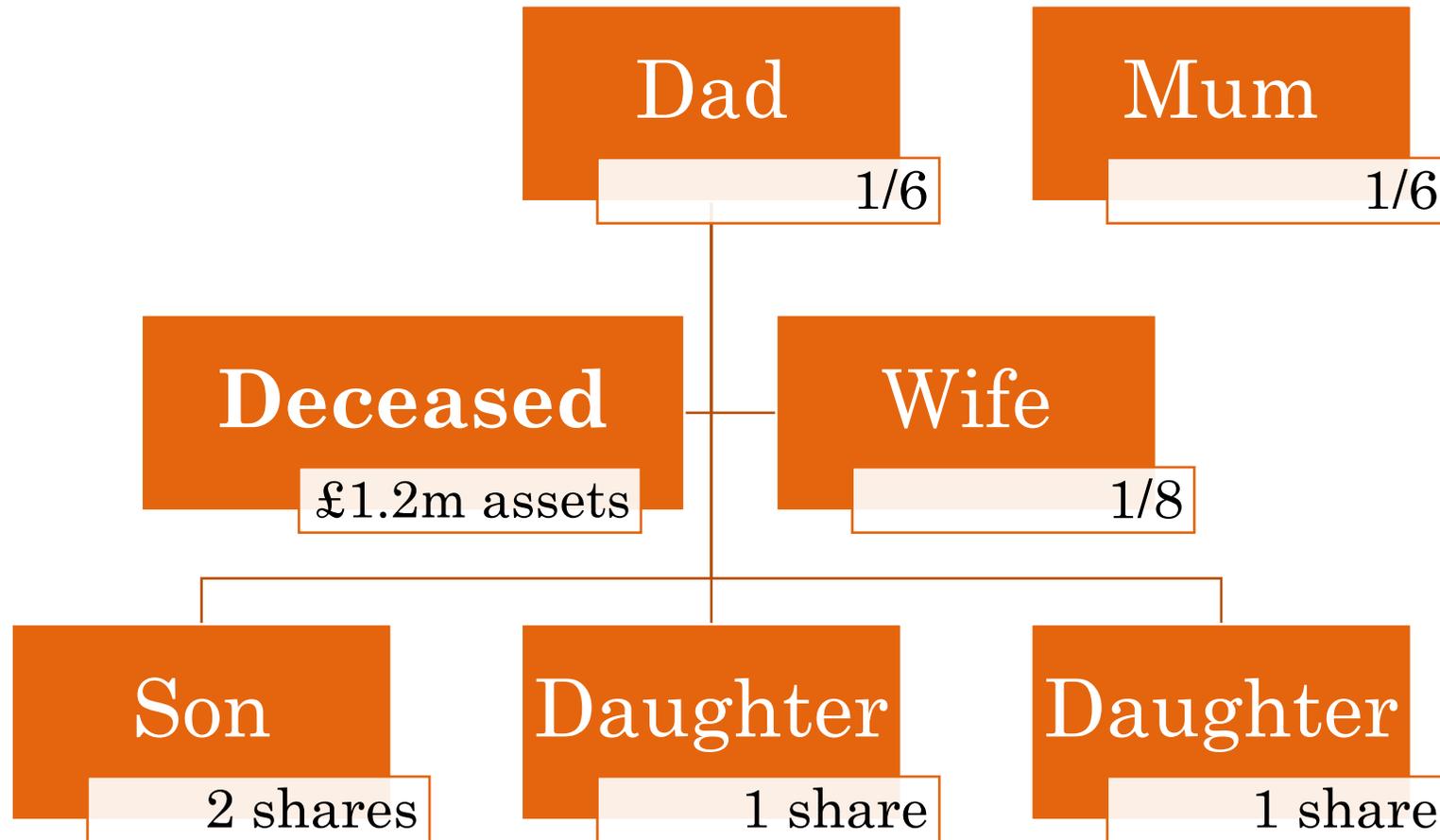
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- Must be paid within 6 months from end of month of death, or interest accrues.
- Arrangements can be made to pay in instalments, up to 10 years, for property
- ALL debts must be documented, or otherwise rejected
- Can potentially also add £175,000 as Residence Nil Rate Band, if a house is gifted to a child/g-child – consult a solicitor

# IHT vs Islam

- A few issues arise when trying to minimise inheritance tax, because of the way English Law deals with different family members. E.g.
  - English Law – Any estate shared between spouses is IHT exempt, even if worth £millions – this is tax efficient
  - Islamic Law – a spouse will maximum receive  $\frac{1}{2}$  estate, or anything less, down to  $\frac{1}{8}$ , dependant on number of children – not efficient
- How do we get around this issue – how do we follow Islamic Law whilst being tax efficient? ...

# A Case Study



# Case Study explained

- 
- Assets - £1.2million (including £250,000 business)

## Islamic Inheritance share

- 1/8 to wife - £150,000
- 1/6 to mum – £200,000
- 1/6 to dad - £200,000
- Remaining balance shared to children, into 4 parts: 2 for son (£325,000), 1 for each daughter (£162,500 each)

# IHT implications

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- Total assets £1.2m, less
  - Nil-rate band (NRB) **£325,000** – non-taxable
  - Spouse exemption **£150,000** – non-taxable
  - Business Property Relief **£250,000** – non-taxable
    - **£725,000** non taxable
    - **£475,000** taxable at 40%
    - = **£190,000 TAX PAYABLE** on a £1.2m estate
    - This liability would be shared between inheritors

**So how do we minimise IHT?**

# IHT principles

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- ANY amount passed on to the spouse after death is IHT-safe
- Legal marriage is a MUST to qualify for spouse exemption
- If estate is inherited by others
  - IHT liability is 40% of estate after £325k NRB exemption and £175k RNRB exemption
  - There will still be an Islamic split, but now every person will be liable to pay a portion of the IHT, proportionately
- Let's consider another case study

# An IHT Case Study

## **MEET THE SULAIMAN FAMILY**

(illustrative purposes only and assuming legally married):

- 1. Dr Sulaiman (husband)**
- 2. Mrs Asiya Sulaiman (wife)**
- 3. Baby Abdullah Sulaiman (son)**

# WANTED THEIR WILL TO BE SHARIAH COMPLIANT

- BASIC WILL DRAFTED BY A NON-SPECIALIST SOLICITOR
- **MAIN ASSET** – FAMILY HOME WORTH £800,000
- ALL OF THE ESTATE IS IN DR SULAIMAN'S SOLE NAME
- FREE WILL REVIEW UNDERTAKEN
  
- HOW DID THE REVIEW GO?

## THE BASIC WILL HAD UNFORTUNATE CONSEQUENCES...

- WILL CREATED AN IMMEDIATE IHT LIABILITY (UPON DEATH) OF **£80,000** WHICH HAD TO FUNDED FROM THE ESTATE. **HOW?**
- ACCORDING TO SHARIAH –
  - **WIFE GETS £100,000 - 1/8TH** – BECAUSE THEY HAVE A SON
  - **SON GETS £700,000 – 7/8THS** – THE REST
- IHT IMPLICATIONS ON THE £800,000
  - **WIFE'S £100,000 – TAX FREE**
  - **£325,000 NIL RATE BAND (NRB) - GENERAL EXEMPTION**
  - **£175,000 RESIDENCE NRB - HOUSE EXEMPTION**
  - **REMAINDER £200,000 IS TAXABLE @ 40% - £80,000 TO PAY**
- NO TAX EXMEPTION FOR ANY FAMILY MEMBER ASIDE FROM SPOUSE

# LET'S HAVE A LOOK - BASIC WILL

£325K | £175K | £100K | £80K

**NRB**

**RNRB**

**WIFE**

**IHT**

**WHERE WILL THE FAMILY GET £80K CASH FROM?**

# BASIC WILL - WITH SOME PLANNING

- COULD LEAVE IT ALL TO HIS WIFE
- CAN SHE BE TRUSTED TO GIVE SON HIS SHARE?
- OR DONATE THE TAXABLE AMOUNT TO CHARITY!

£325K | £175K | £100K | £80K

**NRB**

**RNRB**

**WIFE**

**DONATE TO  
REGISTERED  
CHARITY**

## **THE ALTERNATIVE - A TRUST-BASED WILL**

- **WHAT DOES TRUST FUND CONTAIN:**
  - TRUSTEES
  - THE TRUST
  - THE BENEFICIARIES
- **TRUST-BASED WILLS CAN:**
  - BENEFIT FROM 100% SPOUSAL TAX RELIEF – (LEGAL MARRIAGE!)
  - ENSURES NO IHT IS PAYABLE ON THE FIRST SPOUSE'S DEATH
  - BE COMPLETELY SHARIAH COMPLIANT
- YOU WILL NEED TO SPEAK TO A SOLICITOR FOR A TRUST-BASED WILL

# Minimising/Avoiding IHT – all legal!

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- Firstly, speak to an experienced Muslim solicitor and Mufti/Imam about the legal avenues to minimise the tax you pay
- Trusts can reduce an IHT bill and give you control over how your assets are used by future generations.
- Trusts can help you:
  - Keep a lump sum outside of your survivor's estate to ensure it is not subject to IHT
  - Protect your children/grandchildren's legacy if your surviving spouse remarries
  - Protect your children/grandchildren's legacy from their own marital disputes
  - Avoid giving children/grandchildren a sum of money that they may not spend as wisely as you would like.
- You will need to pay taxes on assets in a Trust, but less than IHT rates

<https://www.moneyhelper.org.uk/en/family-and-care/death-and-bereavement/using-a-trust-to-cut-your-inheritance-tax>

<https://www.which.co.uk/money/tax/inheritance-tax/inheritance-tax-and-trusts-a8x4k7z0kspg>

# Consider a Trust Fund – consult a solicitor!

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- If he set up a Trust fund in his lifetime (in Possession), and made his wife the beneficiary of the **income** of the Trust Fund, the income would be tax-exempt – because it is considered part of the wife's estate
- That leaves the **capital** he initially puts in – he can then write a **Letter of Wishes** (similar to will but not legally binding) which details how the capital should be distributed upon his death, in an Islamic way
- IHT implications – if the deceased themselves continued benefiting from the Trust in his life (Gift with reservation of benefit), he will be considered the owner, so IHT payable. If he had completely separated himself from it, it would not be considered part of his estate
- **The Letter of wishes would be additional to the Will**

# Trusts in Shari'a

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- In terms of the Shari'ah, if a “trust” was not formed with the intention of gifting the assets of the “trust” to the people who have been included as beneficiaries of the trust, rather it was done for tax purposes, then this trust will be regarded as the complete ownership of the one who had formed the trust (deceased). Hence, upon the death of the one who formed the trust, it will be regarded as part of his Shar'i estate (although not part of his IHT liable estate).
- If you have a traditional Interest in Possession Trust, the income received will be zakatable immediately, and the capital will be zakatable once accessible to the beneficiaries.
- If the child trust fund is set up in a manner by which ownership of your property is transferred to your children upon your demise, then that is impermissible. This is because your estate must be divided among all your heirs as per Islamic inheritance law, and your spouse is among your heirs. This is assuming all adult heirs do not give consent at that time.
- If, however, the child trust fund is set up in a manner by which ownership of your property is transferred to your children in your lifetime, then that is permissible, and you need no one's consent.  
[Maydani, Lubab]

<https://islamqa.org/hanafi/muftionline/133563/family-trusts-2/>

# FAQs



- 
- If my family are not Muslim, how do I ensure an Islamic execution of my will?
    - You should write your explaining your wishes, sign it in the presence of two trustworthy witnesses, appoint Muslim executors, keep it safe and explain to your family the importance of fulfilling it Islamically. Speak to your local Imam who could help you with your family. Ensure you sign the Statutory Declaration to guarantee your family follow your religious wishes.
  - Can I give more to a family member than is their Islamic share of inheritance?
    - If you insist upon this for a valid reason, you should make them owners of the assets before your death, without committing oppression on other family members. Once you pass away, they will only receive their share according to the Shari'ah's distribution laws.
    - Write it in your will as a request, which can be rejected by other family members. If they all agree to forfeiting their dues, they can make the person the sole beneficiary or give him the additional share you wished to make him owner of.
  - Can a female be an executor?
    - Yes

# FAQs continued

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- Can I leave a wasiyya for the spouse of an inheritor?
  - Yes, although if it is done with the intention of making other inheritors lose part of their share, it would be reprehensible
- The 1/3 – 2/3 split: is that of the entire estate before any expenses, or after certain expenses?
  - The split is after 1) Funeral Expenses 2) Debt payments
  - E.g. Ahmad leaves being £60,000. His funeral expenses are £3000, his debts are £7000 = £50,000 remaining
  - Of the £50,000, a maximum of 1/3 can be given as wasiyya, and a minimum of 2/3 goes to family
- If someone does not state an executor in their will, what would typically happen?
  - The will is valid by law, but family will need someone to apply for Administration (and attach the will so his desires are met by the administrator). It will delay the process and cause fights, so correct will

# FAQs continued

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- Can the executor be someone who is due to benefit from my inheritance?
  - Yes, although the witnesses must be independent.
- Can I expect my family members to pay my funeral expenses?
  - All funeral costs must come from the estate of the deceased, except if family and friends themselves decide to arrange for payment. This is not an obligation, but a very rewarding act of goodness. It should not be an expectation on family members to fulfil this expense.
- Must my will be signed and stamped by a solicitor?
  - No, although you may choose to for peace of mind. They can ensure it is comprehensive and look after your best interests. It is not necessary if you have sound knowledge of what should be included in the will, both Islamically and legally.
- Is an audio Will valid?
  - No. According to English Law, there must be a written will with 2 witnesses. Shari'ah also needs 2 witnesses. Digital Wills could be permitted from May 2026 after the law change

# FAQs continued

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- Is the law the same in every country?
  - No. The Islamic Will template will not change significantly, however, you would need to consult a local solicitor for your specific laws
- What if I have beneficiaries abroad?
  - Appoint Executors and Trustees who you trust to distribute it to those abroad in the most efficient and cost-effective ways.
- How much does it cost?
  - This template is free. Solicitors like iWill, Fairmont or Private Client Solicitors will charge based on size of estate and complexity of the case.
- What if the family is not happy with my Will or their share of inheritance?
  - In English Law, they can make a claim. However, this is actually a dispute against shari'ah. If they're happy with taking on the Shari'ah, then so be it. If all inheritors together decide to make a change, they can consider a 'Deed of Variation'

# FAQs continued

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- How is the inheritance calculated if an inheritor dies before receiving his share of the first deceased's will?
  - We will go back to the first deceased's estate, give the inheritor their share, then count it as part of their estate when they die. This shows the importance of fulfilling the Will ASAP.
- Is Fidya due on those missed actions which were made up?
  - No, only those which were not made up before death
- Is it wajib or nafl/ mustahab to leave a wasiyya for fidya?
  - First priority must be to complete the missed actions in your lifetime. If not, a person can add fidya of sawm and salah in their Will. Fidya is a form of taubah for the person's missed actions. It is hoped Allah will forgive the sin of the deceased if they pay the fidya. Fidya is due on 1/3 of the inheritance so the inheritors do not lose their entire share.

# FAQs continued

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- Must we pay zakat on inheritance we have not yet received?
  - Inheritance that one does not have access to is defined as a weak debt. The ruling on weak debts such as inheritance is that there is no Zakat due on it for those previous years when one did not have any access to it.
- What if repayments of my debts after death leaves heirs with nothing? Is there a limit?
  - There is no loophole or leeway here. If repayment of a debt means the heirs receive nothing, then that is an unfortunate reality. If the assets are not sufficient and there are still debts remaining, then the debtors will simply not receive their money due, leaving the deceased carrying a great burden of sin. If one or more of the deceased's heirs volunteers to pay off the remaining debts, then that is a good deed that will be rewarded by Allah. However, it is by no means an obligation on the part of the heirs, but rather a recommended act.
- Are outstanding debts passed to family?
  - Importantly, only the deceased's estate is liable for any debts – not their family. If there's only enough to pay some debts, these generally need to be prioritised in this order: funeral costs, then other debts (including taxes).

# FAQs continued

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- If a witness dies during my lifetime, do I need to update my Will?
  - No, but you can if you want, especially if family are the type to fight and the witness can't back the will up because he's dead
- Who pays zakat on money held in a Child's Trust fund?
  - No zakat on minor's wealth until puberty, according to Hanafis
  - Other madh-habs consider zakat payable on minor's assets
- Do we pay zakat on a normal Trust Fund (used to minimize IHT)?
  - Depends on intention of the Settlor (who owns the wealth) who transfers legal ownership to trustees who hold the assets for the benefit of other people known as beneficiaries. More here: <https://www.ilmgate.org/zakat-on-trusts/>

# FAQs continued

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- What if my parents don't have a will and they're getting old?
  - Encourage them to write it asap
  - If you think they're getting sick, consider giving a family member '**Lasting Power of Attorney (LPA)**' – this gives their representative power to make transactions on their behalf
- A **legal document** in England & Wales that allows you to give someone you trust the legal right to make decisions **on your behalf** if you can't make them yourself.
- This can be because you:
  - Lose **mental capacity** (e.g., dementia, brain injury, severe illness).
  - Are **physically unable** (e.g., in hospital, overseas, or paralysed).
- **Key point:** It can only be set up while you have mental capacity — once you lose capacity, it's too late

**Top 10 tips** – from Mufti Omais Aziz  
[omair@privateclientsolicitors.co.uk](mailto:omair@privateclientsolicitors.co.uk)

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1. CHOOSE YOUR EXECUTORS CAREFULLY
2. CHOOSE YOUR GUARDIANS FROM A PRACTICAL POINT OF VIEW
3. EXPRESS YOUR ISLAMIC FUNERAL WISHES
4. DECIDE ON LEGACIES FROM YOUR ONE THIRD SHARE
5. THINK CAREFULLY ABOUT THREATS TO YOUR ESTATE & TRUSTS
6. PLAN FOR YOUR INHERITANCE TAX LIABILITY
7. REVIEW YOUR WILL EVERY 3 – 5 YEARS
8. ENSURE YOUR WILL IS EXECUTED CORRECTLY
9. LEAVE AN ASSET & DEBT SCHEDULE WITH YOUR WILL
10. TELL YOUR EXECUTORS AND YOUR FAMILY WHERE YOUR WILL IS

Free templates – can be found online

<https://www.islamicfinanceguru.com/articles/the-best-3-free-uk-islamic-wills-and-when-theyre-right-for-you>

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- Islamic Relief/ IFG Will template - <https://www.islamic-relief.org.uk/giving/islamic-giving/islamic-inheritance/islamic-wills/>
- Islamic Dawah Academy Will template - [https://ida.uk.org/pdf/last\\_will\\_2020.pdf](https://ida.uk.org/pdf/last_will_2020.pdf)
- Islamic Academy of Coventry – See 2<sup>nd</sup> edition of ‘Funeral Rites in Islam’
- Free Islamic Will – [freeislamicwill.com](http://freeislamicwill.com)
- For consultation and legal services: iWill, Fairmont Legal and Private Client Solicitors – [omair@privateclientsolicitors.co.uk](mailto:omair@privateclientsolicitors.co.uk) – qualified Mufti and Solicitor
- It is safer to spend a small amount of money fixing a complex estate than losing much more due to not consulting a solicitor.
- We do not accept liability once you choose to use any named above
  - **This presentation and its associated documents are completely free of any paid sponsorship which may cause a conflict of interest.**

# Further Reading

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- ‘A practical guide to funeral rites in Islam’ - <http://www.islamicacademycoventry.org/kb/kbcontent/A-Practical-Guide-to-Funeral-Rites-in-Islam-Second-Edition.pdf>
- ‘Laws relating to the deceased’ - [http://askimam.org/public/question\\_detail/29773](http://askimam.org/public/question_detail/29773)
- ‘A forgotten obligation – preparing a will’ - <https://lutonmuslimjournal.com/featured/willprep/>
- Inheritance advice - <https://www.moneysavingexpert.com/family/inheritance-tax-planning-iht/>
- Inheritance tax: <https://www.which.co.uk/money/tax/tax-calculators/inheritance-tax-calculator-a9llq2b2xnqn>

# This is a **FREE** resource.

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To show appreciation, you can

1. Make du'a for me, my late mother and my nearest and dearest
2. Help us keep offering free courses and preparing free resources. Buy me a Qahwa at <https://ko-fi.com/abusulaym94>



# JazakAllah for participating

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- If you have any further queries or require further clarity, please contact a local Alim/ Imam/ Mufti/ Solicitor
- If you spot any mistakes or wish to suggest edits, contact me on [gloswills@hotmail.com](mailto:gloswills@hotmail.com) or @AbuSulaym94 or @AbdullahSamad (LinkedIn)