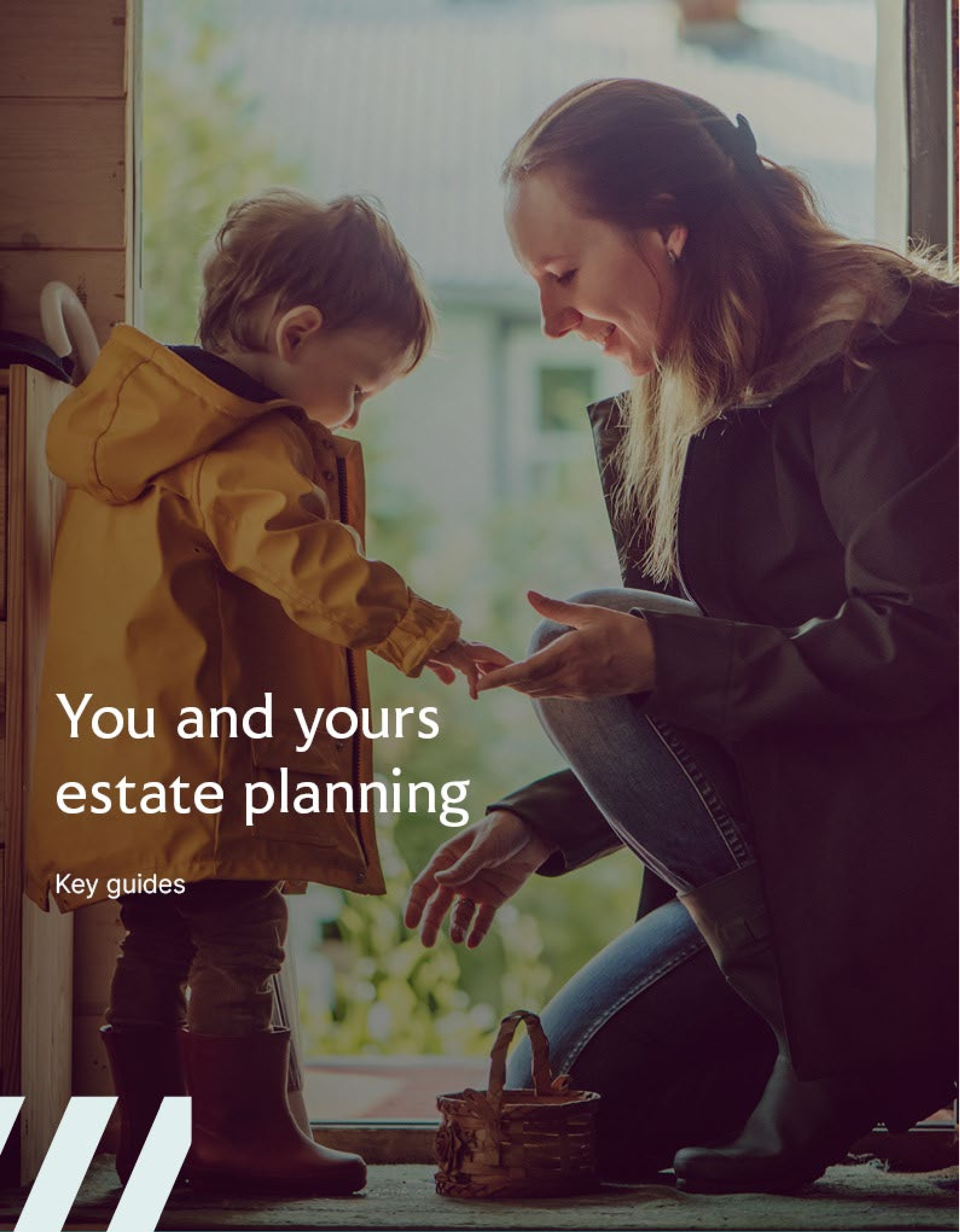

You and yours estate planning

Key guides

WREN STERLING

All too often, people put off estate planning. Understandably – it requires you to think about what happens when you're no longer here, which few of us rush to do.

But estate planning has a way of suddenly becoming all-important. Accidents and sudden illnesses happen. When that moment arrives, it's much better to have a plan in place.

This guide will help you prepare effective plans, so you're in control of what happens to your estate – and your family is protected.

Please note that all examples included in this guide are fictitious.

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The advantages of making early plans

Think about what you can achieve by arranging your estate planning now:

- **You decide on the choice of beneficiaries**
- Without a will, the state decides who benefits from your estate. That can create unexpected – and unwelcome – tax liabilities.

- **You decide what goes to whom**
- You might want to leave a particular item to a particular person. Without estate planning, those wishes may not become reality.

- **You decide the structure**
- Without a will, anyone aged 18 or over normally receives their inheritance outright. In some families, placing constraints on how an inheritance is handled can be essential.

Planning point

Assess your assets and how you'd like to distribute them. Talk things through with your partner and, where appropriate, your family.

Your will

Without a will, your estate falls under the rules of intestacy. These defaults can produce some surprising – and unwelcome – outcomes.

Your will also needs to be kept up to date. Something prepared a decade ago may no longer reflect your circumstances, your family's situation or the current tax legislation. Remember: under current law, marriage will normally result in the automatic revocation of an existing will (except in Scotland). Divorce doesn't have the same effect, but your former spouse is treated as having died before the will becomes operative.

A typical will covers three main elements:

- **Appointments and funeral wishes**

  The people you appoint as executors carry out the terms of your will. Appoint at least two – your partner alone may struggle to manage bereavement alongside estate administration. The choice of executors (and guardians for minor children) isn't one to take lightly, as both roles carry considerable responsibility. This section often also covers funeral arrangements.

- **Distribution**

  This central part sets out the 'who, what, when and how' of your bequests – specific legacies of cash or assets to named individuals or charities. What remains after debts and liabilities are settled (the 'residue') forms the bulk of the estate, to be distributed as you wish.

  Some things to consider here:

  - If some beneficiaries are minor children, a trust will be necessary – few parents are comfortable with an 18-year-old receiving a substantial windfall with no restrictions.
  - You may want a surviving partner to receive income from your estate, with capital passing to your children on their death. A trust can achieve this.
  - You can leave the distribution of the residue to trusted family or friends acting as trustees, with guidance included in your will.

- **Executor/trustee powers**

  This section sets out in legal terms the powers of your executors and, if trusts are created, the powers given to trustees. Wills are usually drafted to maximise flexibility.

A Will can be a few lines or many pages. DIY wills are possible, but it's nearly always better to have your will prepared by a solicitor or professional will writer. Errors in a poorly drafted will may only emerge after it's too late for you to make changes.

Planning point

> Take some time to review your existing will with your partner. Does it still reflect your circumstances and wishes?

A word about probate

Before your executors can carry out the terms of your will, they need to obtain probate. This can involve considerable administrative work – most notably IHT returns and the payment of any tax and probate fees due. If your estate doesn't have enough cash to cover these, your executors may need to borrow to meet the bill.

Current probate fees (as at July 2026):

- England and Wales: £526 for estates of £5,000 and over
- Scotland: no fee for estates up to £50,000; £351 up to £250,000; £705 for larger estates
- Northern Ireland: £326 for estates worth over £10,000, plus £81 for a personal application

Regulations introduced in recent years have substantially reduced estate reporting requirements where no IHT is payable – for example, where everything passes to a surviving spouse. The exempt excepted estates limit was increased from £1 million to £3 million.

And if you don't make a Will...

Whether or not you have a Will, anything you own jointly with someone else will pass to the other joint owner(s) on your death. (The exception is where ownership takes the form of a tenancy in common, which is unusual for married couples and civil partners.)

Without a valid Will, the laws of intestacy apply – and these differ across the UK. Intestacy rules often don't produce the distribution you might expect. For example, a surviving spouse or civil partner won't necessarily receive everything.

Example – The unwelcome intestacy surprise

Henry and Ann had been married for over 30 years when Henry died in a fishing accident in Scotland in August 2025. He made no will, but both assumed everything would pass to Ann. The family home did pass to Ann (owned jointly as joint tenants), but Henry's £900,000 personal estate was dealt with under intestacy.

Although Henry died in Scotland, English intestacy laws applied (his roots were in Kent). So:

- Ann received £322,000 outright and Henry's personal chattels.
- Ann was entitled to half of the remaining estate (£289,000).
- The other £289,000 passed to Patrick – the 37-year-old son from Henry's first marriage.

Unscrambling the effects of intestacy can be done with a deed of variation, but it requires all affected parties to agree to give up their benefits. They may be unable or unwilling to do so.

Powers of Attorney

Whenever you make (or update) your will, you should also consider putting in place a power of attorney. Types differ across the UK.

England and Wales – Lasting Power of Attorney (LPA)

There are two types of LPA, each letting you appoint one or more people (your attorneys) to make decisions on your behalf:

- **Health and welfare LPA**

Covers decisions about your daily routine, medical care, residential care and, if you wish, whether life-sustaining treatment should be refused.

- **Property and financial affairs LPA**

Covers your finances: paying bills, collecting benefits, managing tax affairs, and selling your home. This replaced the old enduring power of attorney (EPA) in October 2007. EPAs established before then remain valid.

Scotland – Powers of Attorney

There are three types, all of which must be registered with the Scottish Office of the Public Guardian:

- **A continuing PoA** – covers financial and property affairs.
- **A welfare PoA** – for health and welfare decisions; can only be used once you've lost capacity.
- **A combined PoA** – the most common; includes provisions of both other types.

Northern Ireland

- An ordinary/general PoA – covers financial affairs if you're temporarily ill or abroad. Ceases to be valid if you become mentally incapacitated.
- An enduring power of attorney (EPA) – allows your representative to act on your behalf if you become incapable. Must be registered with the High Court (Office of Care and Protection).

Arranging powers of attorney can be enormously valuable to your family, allowing your affairs to be handled efficiently if needed. Without one, the state fall-back through the Public Guardian can be slow, expensive and impersonal.

> **Planning point**
> Establishing PoAs can be very beneficial for your family in managing your affairs, should the need ever arise.

How inheritance tax works

Don't underestimate the impact of inheritance tax (IHT). Broadly speaking, IHT is levied on your estate at death and on certain gifts made during your lifetime.

The current tax rate at death is normally 40%. Everyone has a nil rate band (frozen at £325,000 until at least April 2031). To the extent it hasn't been used against lifetime gifts in the preceding seven years, it's available on death.

Key points:

- If you make an outright lifetime gift, you pay no IHT initially – but the value is brought back into your estate if you die within the following seven years.
- Gifts not made outright (notably gifts into most types of trust) may attract lifetime IHT at 20%, to the extent they exceed your available nil rate band and any exemptions. Further tax may apply if you die within the following five years.

The IHT burden

The table below shows the effective rate of tax on a single person's estate, assuming no reliefs or exemptions are available, but a full nil rate band at death (and no residence nil rate band):

Total estate (£)	Inheritance tax payable (£)	Effective rate on estate
400,000	30,000	7.5%
500,000	70,000	14.0%
600,000	110,000	18.3%
750,000	170,000	22.7%
1,000,000	270,000	27.0%
1,500,000	470,000	31.3%
2,500,000	870,000	34.8%

Planning point
Inheritance tax is generally charged at 40% on death and 20% on certain lifetime gifts.

The inheritance tax regime

The IHT rules are complex. Here's a summary of the key provisions:

Transfers

Transfers between spouses and civil partners are exempt from IHT, provided the recipient is domiciled in the UK.

The transferable nil rate band. To the extent that one spouse or civil partner doesn't use their full nil rate band at death, it can be transferred to the survivor. In practice, a couple currently has a combined nil rate band of up to £650,000. The transfer must be claimed in the estate IHT return – it isn't given automatically.

Residence nil rate band. An additional nil rate band of £175,000 (2025/26) can be set against the value of your home where it is left to a direct descendant. Like the nil rate band, any unused portion is transferable between spouses (on claim), but it's subject to a 50% taper if your estate is worth more than £2 million. No RNRB is available if you hold assets above £2.35 million at death (£2.70 million where a full RNRB is transferred from a deceased spouse). Special rules apply for downsizing or selling up.

Example – The residence nil rate band in practice

Jack and Jill each had an estate of £1.2 million when Jack died in September 2025. His will left everything to Jill, who died four months later.

Jill inherited 100% of Jack's nil rate band and, as his estate was under £2 million, 100% of his residence nil rate band (£175,000). But on Jill's death, her estate was worth £2.4 million, bringing the tapering rule into play. Instead of a total residence nil rate band of £350,000 (2 × £175,000), it was reduced by £200,000 (£400,000/2) to just £150,000.

If Jack had used his £325,000 nil rate band on first death to make gifts to other beneficiaries, there would still have been no IHT on his death – and Jill's estate would have been correspondingly smaller, making more RNRB available.

Planning point

Consider what gifts you could make over the next few years to make use of your exemptions and reliefs.

Gifts

Three exemptions work on a tax-year basis:

- The £3,000 annual exemption can cover any type of lifetime gift, in whole or in part.
- The small gifts exemption covers outright gifts of up to £250 per person – useful if you have plenty of grandchildren.
- The normal expenditure gift exemption covers regular gifts made from income that don't reduce your standard of living.

Charities. Gifts and bequests to UK charities, political parties and for public benefit are exempt from tax. Charitable bequests can also cut the IHT rate on your estate to 36%, provided they total at least 10% of your net estate.

Wedding gifts. These are exempt, subject to modest limits based on your relationship with the bride/groom (no more than £5,000 from a parent).

Example – Using the normal expenditure rules

Natalie inherited her late husband Tim's investment portfolio, but not his passion for fast cars and fine wine. She was saving around £2,500 a month from her income, with an additional £6,000 a year rolling up in inherited ISAs.

She didn't need the surplus income but was reluctant to give away capital in case it was needed for nursing home fees. So she chose to give her three children £12,000 a year each as birthday presents. The total annual gift of £36,000 matched her excess income and was covered by the normal expenditure rules.

Natalie kept careful records of her income and expenditure, providing evidence that she didn't need the cash she was gifting – helping her executors considerably.

Reliefs

Business and agricultural reliefs. Businesses and agricultural property can benefit from generous IHT reliefs, provided certain conditions are met:

- The first £2.5 million of combined agricultural and business property are eligible for 100% IHT relief, with the balance attracting 50% relief. Any unused element of the £2.5 million allowance is transferable to surviving spouses and civil partners on death.
- 50% relief applies to qualifying AIM shares.
- 50% relief applies to property and other assets owned by an individual and used by a trading company they control, or by a partnership in which they are a partner. The 50% relief also applies to tenanted farmland where the lease started before 1 September 1995.

Taper relief. The amount of tax payable at death on a gift made within the previous seven years is subject to a sliding scale. For example, tax on a gift made five and a half years before death is reduced by 60%. Note: the taper applies to the amount of tax, not the value of the gift.

Tax avoidance legislation has steadily increased over the years. For example, the 'gift with reservation' rules prevent you making IHT savings by putting your home in your children's names while continuing to live there rent-free.

Making your plan

Estate planning and IHT planning are often lumped together – but if you have a spouse or civil partner, their long-term financial security will probably be your higher priority.

Achieving your estate-planning goals and minimising IHT will involve a range of actions, starting with making your will. It may also include:

The use of trusts

Trusts are often set up purely for estate-planning purposes – for example, setting aside funds to meet the costs of educating grandchildren.

Lifetime gifts

Gifts made more than seven years before death currently escape IHT. Some people worry about giving away assets because of concerns about future income and security – but the tools of financial planning can help address those concerns.

Maximising allowances, reliefs and exemptions

Take advantage of annual IHT exemptions, particularly the normal expenditure gift rule if you have surplus income. If you own a business or farm, make sure you're using the appropriate reliefs in full. You can also benefit from IHT business relief by holding certain investments (including some AIM shares, which can be held within ISAs) for at least two years.

Pension planning

Pensions must be considered in estate planning – especially as their current IHT exemption will disappear from April 2027. A pension can provide the certainty of income that allows you to make lifetime gifts. Some plans can pass down through generations, potentially free of income tax on any payments.

Life assurance

For larger estates, tax will almost certainly be due on death. For married couples, that bill usually arises on second death. Life assurance can provide for this in a way that doesn't increase the size of your estate, and can make use of your annual exemptions.

It can also be possible to adjust your estate after your death, if the beneficiaries agree. This is done with a deed of variation and can be helpful in, for instance, minimising IHT.

How we can help

Estate planning is complex – but you don't have to navigate it alone. We can help with:

- Working with your other professional advisers to optimise the estate and tax-planning aspects of your will.
- Advising on the various tax implications of lifetime gifts.
- Reviewing your pension provision and its role in your estate planning.
- Arranging investments and life assurance to help reduce or fund IHT.
- Keeping you updated on any Budget changes.
- Helping you understand how trusts work.
- Keeping you advised on how new legislation could affect your estate planning.

Important information

The value of investments and the income from them can fall as well as rise. You may not get back what you originally invested, even taking into account the tax benefits.

AIM shares are high risk and can be difficult to sell.

Tax treatment varies according to individual circumstances and is subject to change.

The Financial Conduct Authority (FCA) does not regulate will writing, tax and trust advice, lasting powers of attorney, inheritance tax planning or estate planning.

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