

Sibs

For brothers and sisters
of disabled children and adults



Savings, wills and trusts

A guide for adult siblings of people with lifelong disabilities

- When your brother or sister can't manage a large amount of money, who can?
- Can you leave a house in a will for someone to live in?
- What happens if money isn't in a trust fund?

Sibs is the UK charity for brothers and sisters of disabled children and adults
Registered charity number 1145200. Limited company number 7834303

Contents

Welcome.....	3
When my parents die, am I legally responsible for managing my brother’s finances?	4
My dad wants to leave money in his will equally between myself and my sister who has a learning disability. Will my sister’s benefits be affected when she inherits a large amount at once?.....	4
My parents want to leave everything in their will to me and my sister, and nothing to my brother who is severely autistic because he doesn’t have the ability to manage the money. They said we have to look after his share. Is this OK?.....	5
My dad and his partner don’t have a will. What is likely to happen to their money and property when they die?.....	5
What is the difference between a will and a trust?	6
Our parents have died. I’d like to arrange my will and set up a trust that would benefit my brother who has profound and multiple learning disabilities. What do I need to know about this?.....	7
My Mum wants to leave her house to my sister who has Down's syndrome, so that she can continue to live in it when she is no longer around. Is it possible to do this and how will my sister manage it? .	7
What type of trust fund should we set up for my disabled sister?	8
Find out more.....	9
About Sibs	10

Disclaimer

We have made every effort to ensure that the information in this guide is accurate and up-to-date. Sibs cannot be held responsible for the outcome of any actions you may take as a result of reading this guide. This guide does not replace legal advice. Written January 2024.

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Welcome

This guide is for adult siblings of people with a lifelong disability. Lots of siblings have questions about savings, wills and trusts for their brother or sister, particularly if they have a learning disability and/or they are autistic. This guide assumes that your disabled brother or sister is aged 18 or over.

Read our Decision-making guide first...

There are many different decisions involved in managing money. It may be that your brother or sister is able to make some decisions (such as buying a sandwich when they are hungry) but need support with others (such as spending or investing a large amount of money). Your brother or sister's ability to make these decisions is referred to as their mental capacity. You cannot manage someone's finances if they have the capacity to do it for themselves. If you haven't already, read our guide on decision-making before continuing with this one. You can download it at www.sibs.org.uk/guides

Being a sibling can be a complex and challenging experience. You are not alone.

More support from Sibs

- Meet other siblings [at a support group](#)
- Chat with other siblings on our [private Facebook community, #Siblife](#)
- Download our eBook ['Self-care for siblings'](#)

When my parents die, am I legally responsible for managing my brother's finances?

No. You do not have any legal duties to manage your brother's finances. It is your choice whether or not to become involved.

Your brother's day to day finances and arrangements for care can be managed by the local authority*/local health and social care trust** or by an Individual Service Fund (ISF). If your parents want to leave money to your brother they can set up a trust, which can be managed by a solicitor.

*England/Wales/Scotland **Northern Ireland

My dad wants to leave money in his will equally between myself and my sister who has a learning disability. Will my sister's benefits be affected when she inherits a large amount at once?

Your sister's benefits could be affected, yes. Leaving a large amount of money to a person with a learning disability can result in means-tested benefits and support packages being cut. The local authority*/local health and social care trust** may also consider your sister to be 'self-funding' her care package, until it runs down to a certain level.

Depending on your sister's ability to manage her money, she may also find it difficult to adjust to new found wealth or may be vulnerable to financial abuse from others.

Instead, it's advisable for your dad to leave your sister's share of the money in a special trust for your sister. It would be in your family's interests to take specialist advice about this.

*England/Wales/Scotland **Northern Ireland

My parents want to leave everything in their will to me and my sister, and nothing to my brother who is severely autistic because he doesn't have the ability to manage the money. They said we have to look after his share. Is this OK?

This is quite risky. If all of your parents' money and property is left to you and your sister, in legal terms it belongs to you both only. If you and your sister were to experience a divorce or you were to fall out with each other, then your brother's share of the money is not protected. Whilst this plan may be set out with the best of intentions, circumstances and relationships can change over time.

This also leaves you and your sister with a larger amount of savings than you would otherwise have had. It can result in more tax being paid, and cause complications with the people that you want to inherit from you under your own will.

In addition, we have been told of cases where local authorities have tried to contest the wills of parents who have left their money and property to one son or daughter, passing over the disabled son or daughter. The local authority has attempted to reclaim the money, in order to pay for the disabled person's everyday care needs.

Instead, it may be advisable to leave assets such as money and property in a special trust for your brother. It would be in your family's interests to take specialist advice about this.

My dad and his partner don't have a will. What is likely to happen to their money and property when they die?

About 6 out of 10 people do not write a will. This means that their money and belongings may not go to the people they want when they die.

If your dad hasn't written a will the law decides what happens to his money and belongings after he dies. These are called the intestacy rules.

These rules are not always right for modern families, especially for people who:

- Are not married, but live together
- Need to look after disabled relatives

- Have children from more than one relationship
- Don't want their blood relatives to inherit

If your dad is married or in a civil partnership, and dies without a will, his spouse is likely to receive most of his estate. If he is not married or in a civil partnership, or if they both die at the same time, then his estate will be divided equally amongst his children. If any of his children have died, then their share will pass down to their offspring.

'Estate' only covers things that he owns in his sole name. Some assets won't pass under a will (e.g. things in joint names, certain insurance policies, etc).

Inheriting part of an estate may cause difficulties for your brother or sister. It may be difficult for them to manage a large amount of money and their means-tested benefits may be affected. In addition, there may be a delay in them receiving money while the estate is divided which may leave them without funds.

Instead, it's advisable to have a will in place and to leave assets such as money and property in a special trust for your disabled brother or sister. It would be in your family's interests to take specialist advice about this.

What is the difference between a will and a trust?

A will is a legal document that details what you would like to happen to everything you own after you die. An executor of a will is a person who makes sure the wishes in your will are carried out, such as who receives your belongings and how your money is divided.

A trust is a legally binding way of transferring assets such as money, property and belongings into the care of trustees. The trustees must then use the assets in the trust in the way that you have set out, for the benefit of another person e.g. your disabled sister or brother who is known as the beneficiary.

Our parents have died. I'd like to arrange my will and set up a trust that would benefit my brother who has profound and multiple learning disabilities. What do I need to know about this?

The best single piece of advice is to find a solicitor who has experience in acting for people of a person with learning disabilities. It's not advisable to write their own will, as the process of leaving assets to a person with learning disabilities can be complicated.

A trust can be set up within your will. The solicitor will be able to advise on setting up the right kind of trust to benefit your brother. Different types of trust will be right for different people depending on their circumstances.

Trustees can be friends, other siblings or organisations such as solicitors. As well as stating how you would like the trust to benefit your brother, you can also state how you would like the trust to be spent if there are assets remaining after your brother's death.

The laws around trusts can change – it's a good idea to review wills and trusts regularly to ensure they still meet your brother's needs and that the assets would be protected.

My Mum wants to leave her house to my sister who has Down's syndrome, so that she can continue to live in it when she is no longer around. Is it possible to do this and how will my sister manage it?

Yes, a house can be left in a trust for your sister so that she could continue to live in it. If a special trust is used the house will not be considered as owned by your sister and therefore will not be included as part of her assets if she is assessed for means-tested benefits or social care funding.

It's important for your Mum to consider:

- How would your sister manage the upkeep of the house?
- Are there sufficient funds in the trust to pay for repairs and maintenance?
- What would your Mum like to happen to the house if it becomes unsuitable for your sister's needs?

Different types of trust will be beneficial for different people depending on their circumstances. Find a solicitor who has experience in acting for parents of a person with learning disabilities, and can advise on the best type of trust to set up for your sister.

What type of trust fund should we set up for my disabled sister?

This is a really good question to ask. It is not enough to just set up a trust fund – it needs to be the right kind of trust fund for your sister, otherwise it may not work in the way that you want it to.

There is no ‘one size fits all’ trust fund that is appropriate. You need to seek specialist advice from a solicitor that has experience of setting up trust funds for disabled people, and can advise on the best type of trust to set up for your sister.

There isn't a single accreditation or membership that will guarantee that a solicitor understands this area. Membership of STEP (a professional association for practitioners who specialise in family inheritance) and the Association of Lifetime Lawyers (formerly Solicitors for the Elderly) are useful indicators that the solicitor is likely to be aware of the issues, but it's not a cast-iron guarantee. Lots of solicitors are members of one entity, but fewer will be members of both. A solicitor needs a clear picture of how benefits and care funding works and the interaction with trust law.

Find out more

Who can inherit if there is no will? The rules of intestacy

<https://www.citizensadvice.org.uk/family/death-and-wills/who-can-inherit-if-there-is-no-will-the-rules-of-intestacy/>

The Law Society – find a solicitor (Wales and England)

<http://solicitors.lawsociety.org.uk/>

The Law Society – find a solicitor (Scotland)

<https://www.lawscot.org.uk/find-a-solicitor/>

The Law Society – find a solicitor (Northern Ireland)

<https://www.lawsoc-ni.org/solicitors>

Addressing the issue of wills and trusts naturally leads to addressing the issue of death. Dying Matters is a campaign that aims to help people talk more openly about death, dying and bereavement and to make plans for end of life. Their website has resources to help you start the conversation.

<https://www.hospiceuk.org/our-campaigns/dying-matters>

Next steps

What two actions will you take this month as a result of reading this guide?

1.
2.

Feedback

We would love to hear what you thought of this guide. Drop us a line at info@sibs.org.uk

About Sibs

Sibs is the only UK charity representing the needs of siblings of disabled people. There are over half a million young siblings and at least 1.7 million adult siblings in the UK, who have grown up with a disabled brother or sister. Sibs aims to enhance the lives of siblings by providing them with information and support, and by influencing service provision throughout the UK.

Being a sibling can be a complex and challenging experience. You are not alone. Visit our website, follow us on social media, and sign up to our mailing.

Website www.sibs.org.uk

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Sibs relies on donations and grants to support siblings. If this guide has helped you, please consider [making a donation](#) or become a [Friend of Sibs](#).