

# Islamic Wills in England and Wales

September 2018

The [European Convention on Human Rights](#) gives everyone in the UK a right to freedom of thought, conscience and religion. This includes the freedom for an individual to live and die following their faith. This, coupled with English law's principle of testamentary freedom, allows everyone over the age of 18, with mental capacity, to create a will.

Accordingly, a Muslim over the age of 18 with full mental capacity has the right to dispose of his or her assets in accordance with Sharia law, subject to compliance with English law.

## How to create an Islamic will

The legal requirements set out in [section 9](#) of the Wills Act 1837 need to be complied with for a will to be valid. In brief, a will must be:

- in writing;
- signed with the intention to give effect to the will; and
- signed in the presence of two or more witnesses.

As with any will, care should be taken in selecting any executor(s). Sharia law recommends choosing Muslim men who have knowledge of Sharia law as their knowledge will assist them in making decisions during the administration of the estate. For example, investing monies in a trust fund in accordance with Islamic finance rules. Further, the will should declare the testator's intention to follow Sharia law. This will be useful should the will be challenged.

It is also useful to document any funeral wishes within your will including any preferred burial site. Many Islamic wills state a direct objection to having an autopsy,

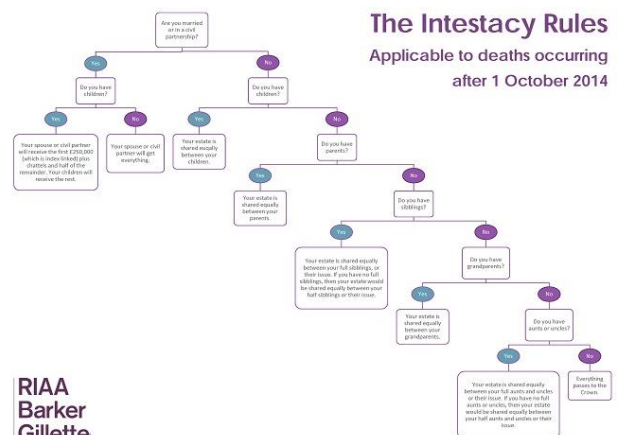
although again that is likely to be a matter for English law and the relevant authorities.

Sharia law sets out strict rules that determine how an individual's assets are to be administered upon death. These have been prescribed in the Quran and are vastly different to English law.

At RIAA Barker Gillette, our wills, tax and trust lawyers have the benefit of in-house advice from [Ahsan Rizvi](#), who has an LL.M and a PhD in Sharia law.

Failing to create a will, Islamic or otherwise, will result in the deceased's personal assets being distributed in accordance with the [Intestacy Rules](#) (see our [article](#) on the importance of creating a will).

For a simple guide to the Intestacy Rules click [here](#), or on the below flowchart.



**RIAA  
Barker  
Gillette**

These rules of distribution are vastly different to the rules set out in the Quran. Beneficiaries under the Intestacy Rules may elect to distribute the estate in accordance

with Sharia law, however, it may not be in their interest to do so and the lack of a will can lead to family disputes.

## Sharia law and estate planning

In England and Wales, estates valued at over £325,000 are charged Inheritance Tax at 40%, subject to any other available reliefs and exemptions. Sharia law is not the most tax efficient way to distribute an estate as it does not fully utilise reliefs and exemptions available such as the residential nil rate band (also known as the “additional threshold”) or a spouse’s exemption.

Life time estate planning can assist in reducing the Inheritance Tax payable under Sharia law distribution.

Before creating an Islamic will, speak to our wills, tax and trusts specialist, [James McMullan](#), to ensure you create a valid will, attempt to minimise your Inheritance Tax liability and avoid potential claims against your estate under the [Inheritance Act](#).

You should review your will every 18 to 24 months and whenever a life changing event occurs, such as a birth, death, marriage\*, divorce or an increase in wealth.

*\* It is important to note that a marriage revokes a will in its entirety, but a divorce does not, although a gift in a will to a spouse who is later divorced by the testator will be treated as if the spouse had pre-deceased.*

**Lalita Kauldhar**  
020 7299 7004  
[lalita.kauldhar@riaabg.com](mailto:lalita.kauldhar@riaabg.com)  
[www.riaabarkergillette.com](http://www.riaabarkergillette.com)



Note: This is not legal advice; it is intended to provide information of general interest about current legal issues.

