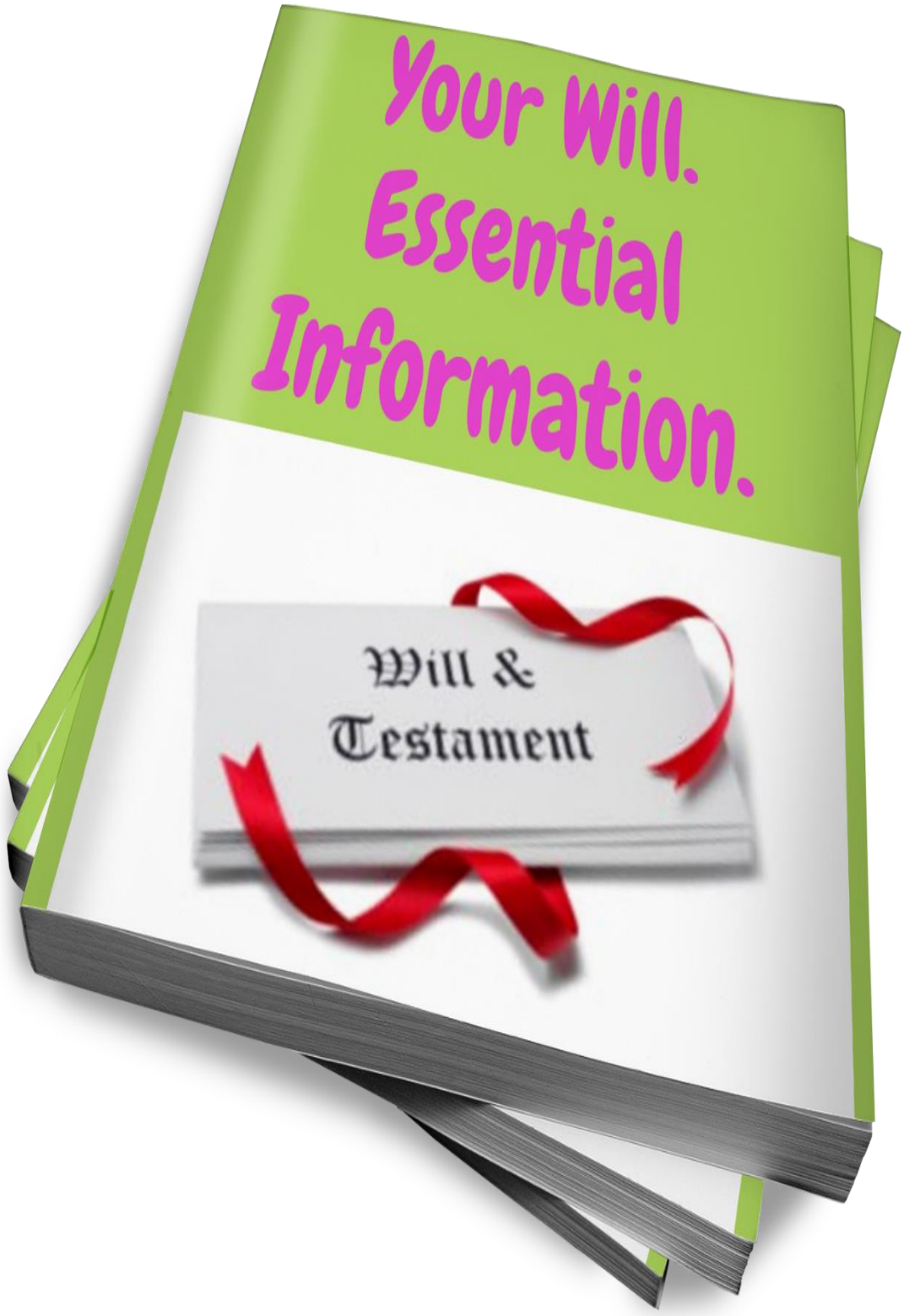

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Reasons to make a will.

1. Make a will to name your children's guardian.

When you make your will, you are not just deciding how your estate will be divided up after your death, you are deciding who should look after your dependents. If your children are under 18, you can also appoint their legal guardians. If you don't, this decision could be left to the family courts, who may choose a person you wouldn't. You may have named friends or family members to be your children's godparents, but this isn't a legally effective relationship.

2. Ensure your children are provided for financially.

As well as saying who will look after your children, you can make plans to provide for them financially. This might include putting aside money for their education, making sure they receive a set amount each year, or establishing a nest egg to buy a home. You may wish to consider setting up a trust to provide for your children, as this gives you an element of control over when your children receive the money, and what it gets used for. There are two ways to set up a trust: you can either establish it while you are still alive, or leave instructions for it to be established by your will after you pass away.

3. Provide for your dependents, including step-children.

Your step-children may be a big part of your life, or even be your only children, but the Intestacy Rules state that only spouses or blood relatives can automatically inherit if there is no will. If you want to provide for your step-children, you'll need to write a will that includes them. The same goes for foster children, or any other dependents who may rely on you for support.

4. Protect your partner if you're unmarried.

As above, unmarried partners aren't entitled to anything from your estate unless specifically stated in your will - no matter how long you've been together. Writing a will ensures your partner will receive their fair share of your estate.

5. Safeguard your family home.

If the family home is in your name, your unmarried partner and step-children will not inherit it if you die without a will - meaning they may lose their home. You can leave them a share of the property in your will.

6. Head off family disputes.

Dividing up an estate can sadly sometimes lead to disputes and arguments among your survivors especially if there is no will or your wishes aren't made clear. Contested wills is very expensive and is almost always damaging to relationships within your family. A well-prepared will can help avoid these arguments, and avoid making your passing even more stressful for your family and dependents.

7. Avoid paying more inheritance tax than you need to.

The amount of inheritance tax that will be charged from your estate depends on how much you have, and also who you leave it to. Anything left to your spouse or civil partner will be automatically exempt from inheritance tax. Leaving property to your children and grandchildren will, if the right conditions are met, lead to a lower inheritance tax bill than leaving it to other family or friends.

8. Create a legal will if you're recently married.

When you marry, your existing will automatically become invalid in England and Wales. According to the rules of intestacy, this means your estate could end up split between your new partner and children from a previous marriage, potentially causing arguments. Getting divorced doesn't automatically override

your will, meaning your ex-partner may still be in line to inherit from your estate.

9. Decide who you would like to handle your affairs.

In your will, you specifically name the executor, or multiple executors, who will be in charge of carrying out your wishes. Choosing your executor allows you to select the best person for the task and also gives the executor prior warning so they can prepare themselves.

10. Say who you want to look after your pets.

If you have dogs, cats, or any other pets, they may also need to be looked after if you pass away. In your will you can choose someone to look after them, and put some money aside for their care.

11. Protect your digital assets.

Nowadays, your assets may not include just property, money in the bank and physical goods. Digital accounts and online purchases, such as music, photographs, or websites, can also form part of your possessions and could possibly disappear into the void if you don't account for them in your will.

12. Support a charity.

If you support a charity, you may wish to leave something for it when you pass away. As well as supporting a good cause, you could potentially reduce the amount of inheritance tax paid by your family if you leave more than 10% of your assets to charity.

New Approach Wills

Freephone 0800 702 2167.

info@newapproachwills.com

About Your Will with New Approach.

Your Will has been drafted in a way that is as easy to understand as possible, to ensure your executors and trustees understand your wishes. However, the law relating to Wills and probate is sometimes complex; this commentary should help to explain what your Will says and does.

Scope of your Will

Your Will disposes of everything you own except:

- assets which you own jointly with someone else (such as property or bank accounts), which pass to the survivor(s) automatically on your death;
- discretionary benefits from pension schemes or other types of trust.

If you own an asset with others as tenants in common, your share or interest will pass under your Will.

Revocation

For the avoidance of doubt, it is important to make it clear you are revoking (replacing) all previous Wills. Wills are automatically revoked on marriage unless you state otherwise and name the person you intend to marry. Subsequent divorce does not revoke the Will, but any gift or provision for a former spouse will fail and be treated as if they had died.

Executors and Trustees

Executors are the people you have chosen to deal with your estate according to the instructions in your Will after your death. They obtain authority to do this by 'proving' the Will at a probate registry, which issues a grant of representation. The grant will need to be seen by institutions holding your assets and investments before your executors can sell or transfer them (unless their value is below a minimum value).

It is not necessary to use a professional to obtain probate, but it can be a complex and very time-consuming process and many executors seek professional help with some or all of the process. A professional will charge for their time in obtaining probate, as can any professional acting as your executor or trustee.

Your executors are also referred to as trustees because technically they are also the trustees of your residuary estate (whether or not you have created other continuing trusts in your Will).

Administration of the estate

It is the job of your executors to pay any debts in your sole name at the time of your death, to pay for the funeral if not pre-paid or pre-arranged and to pay the costs of probate and administration. Ongoing trustee costs will be paid by any relevant trust.

Inheritance tax will be due if your estate is worth more than the combined tax reliefs (such as agricultural or business reliefs), exemptions (such as gifts to spouses and charities) and nil rate bands available to your estate (personal, transferable and residential). Tax may also then be due relating to transactions in the previous seven or even fourteen years. Any tax due has to be paid by your executors before they can apply for probate and get control of the assets. Tax due can be transferred directly from most bank accounts, but loans may have to be arranged against property if insufficient cash is in the estate.

Whatever is left is classed as your residue or your residuary estate and is then distributed according to your wishes, taking into account any guidance you have left for your trustees.

STEP provisions

The STEP administrative provisions are contained in a separate document available online at http://www.step.org/sites/default/files/Comms/SSP2_rebrand.pdf. The provisions make the administration of your estate easier and more efficient. This set of comprehensive provisions is applied to every Will because it is more efficient than copying them into the Will, and it is better for your executors to have some powers they may not need to use rather than insufficient powers available to them.

Attestation or execution clause

You must date and sign the Will in the presence of two independent witnesses (not people who are due to benefit under the Will or who are a spouse / civil partner of a beneficiary) who also sign and give their contact details.

OUR PRICES.

Single Will.

A legal document expressing your wishes regarding the distribution of your property and possessions, specifying executors, guardians, funeral wishes, specific gifts and residue.

£99.00

Mirror Will

The same as the above but mirrors your partners wishes, ideal for married couples.

£149.00

Will Plus

More complicated wills, complex wishes, multiple specific gifts, charitable bequests, provision for pets, exclusions, disinheritance etc.

£249.00

Property Protection Trust Wills

Protect your share of your most important asset against future care fees, ensure your children do not get disinherited, give the right to reside to your loved ones.
Includes mirror wills with property protection/flexible life interest trusts & Land Registry SEV documents.

£499.00

Lasting Power of Attorney

Lasting Powers of Attorney allow your attorney/s to act for you, to make decisions on your behalf, pay your bills or speak to doctors and other professionals.

There are two types of Lasting Power of Attorney;

Health & Welfare. **£249.00***
Property & Finance. **£249.00***

*An additional fee of c.£90 is payable to the Office of the Public Guardian to register each LPA.

Legal Document Storage

Includes free unlimited updates.

£50.00 pa.

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Already Have a Will?

That's great, but ask yourself:

- Does it still say what you want it to say?
- Is it up to date?
- Is it still relevant & does it deal with all your property?
- Does it protect your home from the cost of future care?
- Does it protect your children if your partner remarries?
- Does it do everything possible to minimise your liability to IHT?

Contact New Approach today & make sure your will is up to date:

0800 7022167

Free Will Review to all our Subscribers.

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Wills: Essential Information.

The Law.

The law in England and Wales that governs wills is mainly derived from the Wills Act 1837. The law that specifies when a person has the capacity to make a will was set out in a case from 1870.

Marriage & Divorce.

1. A Will made before a lawful marriage or civil partnership is automatically revoked by that marriage or civil partnership, but it will not be revoked if the Will is specifically made "in contemplation of marriage/civil partnership". It is not enough to expect to marry in general, or maybe sometime in the future – you must expect to marry a specific/named person, and withinin a reasonable amount of time. Making a Will in contemplation of marriage, or making a Will in contemplation of a registered civil partnership, should help your loved one receive as much of your estate as you would like them to.

Example Clause:

> "*Clause 2.*
>
> *I expect to marry (enter into a civil partnership with) ……(name)…… of …….(address)……. And want this Will to stay in force after our marriage (civil partnership). "*

2. Once a divorce has been finalised, your existing Will still exists, (therefore, in most cases it is important to rewrite it), as it will most likely no longer reflect your wishes. However, if you do not re-write, any gifts in your existing wll to your ex-spouse will lapse (be treated as if he/she passed away before you), and they will no longer be the executor of your Will. This may or may not be what you want; in most cases you should rewrite your Will, as your Will may be left without an executor or with too few executors, presenting significant problems.

New Approach Wills

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Common Misconceptions about Wills.

1. Your partner will get everything anyway.

Many people assume that their partner will automatically inherit everything after they die, especially if they live together. But that's not necessarily the case. If you die without a will, the laws of intestacy apply. This means your estate will be shared out in a strict order, based on your family connections. Under these rules, married spouses and civil partners are the first to inherit, but unmarried partners won't get anything, no matter how long the relationship was.

2. Making a will is expensive

Writing a legally valid will doesn't have to be expensive – often you can do it for less than £100 if your affairs are straightforward (or even free of charge at certain times of the year. October & March are Free Wills Month when charities offer those aged 55 or over the opportunity to draw up a simple will at participating solicitors.)

3. It takes ages to write a will.

You might be surprised to discover you can draft a will in under an hour, if your affairs are fairly straightforward. You can speed up the process using our handy wills planners to work out what assets you have, who you want to benefit, and who to appoint as executors.

4. Your will cannot be changed.

The wishes you set out in a will aren't set in stone – so you can change your mind or update it to reflect a change of circumstances at any time. Small changes to your will can be made through a legal document called a codicil. If you want to make a more major change, you can make a new will that replaces the existing one.

5. You need a lawyer to write a will.

Theoretically, you could write a will all by yourself, without the need for legal advice. A will can be made on any sheet of paper and follow any format, as long as it's signed by you and witnessed by two other people over the age of 18. However, to make sure it's legally binding, it's a good idea to get some support and specialist advice, especially if your circumstances are complicated.

6. It's obvious who will look after your children.

In most cases, when a parent dies, the surviving parent will look after any children. But what if both parents pass away at the same time, or one is no longer in the picture? You might have named god-parents for your children, but this isn't a legally binding arrangement. Even if there is an obvious candidate to be a guardian – such as a family member who's heavily involved in your child's care – other relations could step forward to make a claim, leading to family disputes. A will allows you to appoint a legal guardian for your children in the event of your death, which will give you peace of mind.

7. All your children will get a fair share.

Dying without a will can inadvertently disinherit the people closest to you. Step-children or foster children cannot inherit from your estate unless you explicitly provide for them in a will, even if they're living with you. Adopted children, on the other hand, are treated the same as biological children.

8. You're too young to need a will.

Don't put it off, everyone needs a will, and if you have dependants, it's vital to protect their needs if the worst happens. Hopefully, it won't be needed for many years, but no-one can predict what's going to happen – and you want to make sure what you have goes to the right people.

9. Your will is valid forever.

When you get married, your will automatically becomes invalid in England and Wales. Should you die, your estate would be split between your new partner and any children (including those from a previous marriage), which may not have been what you intended. Also, bear in mind that divorce does not

invalidate a will. So if you'd like to re-arrange your affairs after splitting up with a partner, you will need to write a new will as well.

10. Executors and Trustees of a will cannot inherit under that will.

You can specify that you executors and trustees can benefit from your will in any manner you think fit. (It is witnesses not executors/trustees who cannot inherit).

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Common Mistakes.

1. Not having two valid witnesses.

For a will to be valid, it must be signed in the presence of two independent witnesses over the age of 18. After you've signed the document, you must watch the witnesses sign it. If there is just one witness, the will won't be valid. Your witnesses also need to be physically present when you sign. (subject to new rules relating to COVID19 see below.)

2. Storing photocopies.

When you die, your executors will need your original will to legally administer your estate – not just a photocopy. Without the original, it will be difficult for your executors to obtain a grant of probate to manage your affairs.

3. Asking a child or partner to be a witness.

Witnesses aren't allowed to benefit from your will in any way – meaning if your child or partner signs the will, you could inadvertently disinherit them. When you choose your witnesses, make sure that they do not stand to inherit anything from your will.

4. Making changes to your will.

You cannot just make amendments to your will after it has been signed and witnessed. Putting in a note or crossing out a clause and initialling it won't count. For minor changes you can make an official alteration called a codicil. This must be signed and witnessed in the same way as a will. If there are major changes, it may be worth making a brand new will to avoid any confusion.

5. Forgetting intangible assets.

It is important to make your intentions regarding who should inherit intangible assets, such as bank accounts, premium bonds or shares clear. You may also be able to pass on air miles or loyalty points if you've built up a large pool. It may

be worth including electronic assets – digital photo albums or music collections, for example.

6. Being too specific.

Whilst it is important to be clear about your wishes but if you pass on specific assets that are likely to change, your will may be outdated by the time you pass away. To avoid this scenario it is advisable to stick to more general descriptions of the asset, such as 'the car in my name at time of my death.'

7. Forgetting to name an executor.

When you die, you will need an executor to deal with the administration of your estate in accordance with your will. Keep in mind that you can appoint more than one executor, and these can be relatives, friends or even a solicitor.

8. Assuming you'll die first.

A will sets out what happens when you die, but you might not be the first to go. You should think through all possible scenarios and set out what you would like to see happen in each.

9. Getting married or having a child without making a new will.

When you get married, your existing will automatically become invalid. If you die without creating a new will, your spouse will automatically inherit half (or even all) of your estate under the intestacy rules – potentially disadvantaging your children. To divide up your estate in the way you think is best, you need to write a new will every time you marry. Similarly, if you don't choose a guardian for your child in your will, the decision about it could go to family courts – so update your will when you become a parent.

10. Excluding your step-children.

When you make reference to 'my children' in your will, be aware that this won't automatically cover step-children or foster children, even if you raised them and consider them to be your own. Legally adopted children will be considered the same as biological children, however. If you want to provide for your step-children or foster kids, you'll need to be explicit about them benefiting from your will.

11. Assuming your partner gets half.

Unmarried partners aren't entitled to anything from your estate unless they are specifically included in your will – no matter how long you've been together. Writing a will ensures your partner will get their fair share.

12. Disinheriting without providing a reason.

If you're planning to leave a dependent out of your will, you need to be explicit about why you're doing so and where you'd like your money to go instead – or they could successfully contest your decision on the basis they had been 'unreasonably' excluded.

13. Lacking full capacity.

You need to be of sound mind when you make a legal will. If you're under the influence of alcohol or drugs while making your will, its validity could be contested after you pass away.

14. What happens if your will is invalid?

If you die without a will, or your will is found to be invalid, you won't have any control over how your estate split up. Your assets may end up being distributed according to the rules of intestacy – so if the estate is worth more than £250,000, half will go to your spouse and the other half split between your children.

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Planning Your Will.

Use our handy tables & checklists to:-

- **Work out the value of your estate.**
- **Decide who you want to benefit from your estate.**
- **Decide who you want to deal with your affairs after you've gone.**

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1. Work out the value of your estate.

Assets.

Your Home (your share)	
Other Property/land	
Cars etc	
House contents & items of value eg art, jewellery.	
Money in banks/building societies.	
Shares/investments/premium bonds etc.	
Insurance & pensions.	
Other.	

Total £ .

Liabilities.

Your mortgage.	
Loans & overdrafts.	
Credit Cards.	

Other.	

Total £ .

Total Assets. (assets – liabilities) **= £**

2. DECIDE WHO YOU WOULD LIKE TO PROVIDE FOR.

Name & Address	% Share	Amount £	Specific Item

3. Decide who you want to deal with your affairs.

Your Name & Address.	
Your Partner's name & address (if different).	
Your Executors. (Up to four people you trust to carry out your wishes).	

Children's full names, addresses (if different) & DOBs.	
Guardian's full names & addresses (for any children under 18.)	

Covid19.

New legislation on making wills: From .gov.uk

The legislation recognises that:

- An increasing number of people have sought to make wills during the Covid 19 pandemic, but for people shielding or self-isolating it is extremely challenging to follow the normal legalities of making a will - namely it being witnessed by two people.
- In response to this The law (the Wills Act 1837) will be amended to state that whilst this legislation is in force, the 'presence' of those making and witnessing wills includes a virtual presence, via video-link, as an alternative to physical presence.

The legislation will apply to wills made since 31 January 2020, the date of the first registered Covid-19 case in England and Wales, except:

- cases where a Grant of Probate has already been issued in respect of the deceased person
- the application is already in the process of being administered

The legislation will apply to wills made up to two years from when the legislation comes into force (so until 31 January 2022), however this can be shortened or extended if deemed necessary, in line with the approach adopted for other coronavirus legislative measures. The advice remains that where people can make wills in the conventional way they should continue to do so.

When the new law ceases to be in force, people will only be able to make new legal wills using the normal methods.

The legislation applies to codicils (documents that formally modify or amend an original will). Codicils must satisfy the same signing and witnessing rules that are involved in the making of a will.

This guidance reflects both requirements and suggested best practice:

- where 'must' is used it reflects a legal requirement
- where 'should' is used it relates to (non-mandatory) best practice

The current law on making wills

The legislation ruling the making of wills in England and Wales is the Wills Act 1837

None of the existing relevant requirements are changed by the new law.

Section 9 of the Act sets out the requirements for making and witnessing a will as follows, and these requirements remain in force:

No will shall be valid unless -

(a) it is in writing and signed by the testator or by some other person in his presence and by his direction; and
(b) it appears that the testator intended by his signature to give effect to the will; and
(c) the signature is made or acknowledged by the testator in the presence of two or more witnesses present at the same time; and
(d) each witness either attests and signs the will or acknowledges his signature in the presence of the testator (but not necessarily in the presence of any other witness), but no form of attestation shall be necessary.

The law also includes a number of other requirements. For example, that the person making the will 'has testamentary capacity' - that they know fully what they are doing and are able to express their intentions - and that they are not being unduly influenced by anyone.

For witnesses, the current law allows an executor to the will to be a witness but a beneficiary from the will (or their spouse/civil partner) cannot be a witness without the gift to them becoming void. 'Mature minors' are allowed to witness a will, but blind people cannot. There is a general assumption that a witness should have testamentary capacity.

Distanced witnessing - 'clear line of sight'

In the existing law a witness must have a 'clear line of sight' of the will-maker signing and understands that they are witnessing and acknowledging the signing

of the document, for example if self-isolation or social distancing have prevented the signing and witnessing of a will by people in the same room.

The person making the will must have a clear line of sight of the witnesses signing the will to confirm they have witnessed the will-maker's signature (or someone signing on their behalf and at their direction).

The following scenarios would lead to a properly executed will during the pandemic within the existing law, provided that the will maker and the witnesses each have a clear line of sight:

- witnessing through a window or open door of a house or a vehicle
- witnessing from a corridor or adjacent room into a room with the door open
- witnessing outdoors from a short distance, for example in a garden

Video-witnessing

In the new law, all of the legislation set out above applies where a will is video-witnessed.

The type of video-conferencing or device used is not important, as long as the person making the will and their two witnesses each have a clear line of sight of the writing of the signature.

To reflect this, the will-maker could use the following example phrase:

'I first name, surname, wish to make a will of my own free will and sign it here before these witnesses, who are witnessing me doing this remotely'.

Witnessing pre-recorded videos will not be permissible - the witnesses must see the will being signed in real-time. The person making the will must be acting with capacity and in the absence of undue influence. If possible, the whole video-signing and witnessing process should be recorded and the recording retained. This may assist a court in the event of a will being challenged - both in terms of

whether the will was made in a legally valid way, but also to try and detect any indications of undue influence, fraud or lack of capacity.

The following scenarios illustrate circumstances in which video-witnessing might be appropriately used:

Example 1:

the testator (T) is alone and witness one (W1) is physically present with witness two (W2). Together, W1 and W2 are on a two-way live-action video-conferencing link with T

Example 2:

T, W1 and W2 are all alone in separate locations and are connected by a three-way live-action video-conferencing link.

Example 3:

T is physically present with W1, and they are connected to W2 by a two-way live-action video-conferencing link.

Example 4:

T is physically present with a person signing the will on their behalf (and at their direction), and connected to W1 and W2 by two or three-way live-action video-conferencing (depending on whether W1 and W2 are in the same or separate locations)

Signing and witnessing a will by video-link

Signing and witnessing by video-link should follow a process such as this:

Stage 1:

- The person making the will ensures that their two witnesses can see them, each other and their actions.

- The will maker or the witnesses should ask for the making of the will to be recorded
- The will maker should hold the front page of the will document up to the camera to show the witnesses, and then to turn to the page they will be signing and hold this up as well.
- By law, the witnesses must see the will-maker (or someone signing at their direction, on their behalf) signing the will. Before signing, the will-maker should ensure that the witnesses can see them actually writing their signature on the will, not just their head and shoulders.
- If the witnesses do not know the person making the will they should ask for confirmation of the person's identity - such as a passport or driving licence.

Stage 2:

The witnesses should confirm that they can see, hear (unless they have a hearing impairment), acknowledge and understand their role in witnessing the signing of a legal document. Ideally, they should be physically present with each other but if this is not possible, they must be present at the same time by way of a two or three-way video-link.

Stage 3:

- The will document should then be taken to the two witnesses for them to sign, ideally within 24 hours. It must be the same document (see Counterpart documents).
- A longer period of time between the will-maker and witnesses signing the will may be unavoidable (for example if the document has to be posted) but it should be borne in mind that the longer this process takes the greater the potential for problems to arise.
- A will is fully validated only when testators (or someone at their direction) and both witnesses have signed it and either been witnessed signing it or have acknowledged their signature to the testator. This means there is a risk that if the will-maker dies before the full process has taken place the partly completed will is not legally effective.

Stage 4:

The next stage is for the two witnesses to sign the will document – this will normally involve the person who has made the will seeing both the witnesses sign and acknowledge they have seen them sign.

- Both parties (the witness and the will maker) must be able to see and understand what is happening.
- The witnesses should hold up the will to the will maker to show them that they are signing it and should then sign it (again the will maker should see them writing their names, not just see their heads and shoulders).
- Alternatively, the witness should hold up the signed will so that the will maker can clearly see the signature and confirm to the will maker that it is their signature. They may wish to reiterate their intention, for example saying: “this is my signature, intended to give effect to my intention to make this will”.
- This session should be recorded if possible.

Stage 5:

- If the two witnesses are not physically present with each other when they sign then step 4 will need to take place twice, in both cases ensuring that the will maker and the other witness can clearly see and follow what is happening. While it is not a legal requirement for the two witnesses to sign in the presence of each other, it is good practice.

Consideration may be given to the drafting or amending of the attestation clause in a will where video-witnessing is used. The attestation clause is the part of the will that deals with the witnessing of the will makers signature. For video-witnessed wills it may be advisable to mention that virtual witnessing has occurred, along with details of whether a recording is available.

If you have any questions about this process you are advised to consult a solicitor or will-making professional.

Professional bodies, such as the Law Society and STEP, are expected to be issuing their own guidance to their members on this process, and any such material should be read alongside this guidance.

Electronic signatures

The Government has decided not to allow electronic signatures as part of this temporary legislation due to the risks of undue influence or fraud against the person making the will. These risks were identified by the Law Commission in its 2017 consultation paper on wills. The Law Commission is undertaking a law reform project which will include consideration of the possibility of allowing electronic wills in the future.

Counterpart documents

The term 'counterpart documents' refers to when two copies of the will are prepared, and while the will maker signs one document, the witnesses sign another copy of the same document. The two counterpart documents between them constitute one valid will.

The Government has decided against introducing counterpart wills as part of this temporary legislation. Although some authorities have adopted this reform to complement video-witnessing, the Government has decided against allowing it in England and Wales in the belief that the risks outweigh the benefits at this stage. Such risks include there being different versions of the will (with different contents), the witness signing the wrong document, and an increase in the risk of undue influence and fraud.

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