

Where there is Will we need to find a way

With the devastating effects of the Coronavirus being reported globally, you may be thinking about estate planning and preparing your Will or amending an existing one. Modern technology means that even in the state of “lockdown” the UK and other countries currently find themselves in, you can speak to your advisors over the phone, by email and even face to face using video-conferencing apps, making meetings just as easy as in person.

Once your Will has been prepared – you need to sign it and section 9 of the Wills Act 1837 sets out how to do this to ensure it is valid. First, your Will needs to be in writing, which is easy because your advisor will have already done this for you. Secondly, you need to sign your Will, or ask someone to do this on your behalf if you cannot. This should be easy to do if you can sign for yourself however, if you are not able to then you should speak to your advisor and apply the social distancing rules to the person who will be signing on your behalf. Finally, your signature needs to be witnessed by two people who also need to sign your Will in the presence of you and each other.

In the current circumstances it may be difficult to find independent witnesses and also keep to social distancing rules. Witnesses should not be family members, anyone named in the Will (unless they are named as Executors only) or anyone under the age of 18 years old. You can ask neighbours and friends who live close to you or perhaps two people that you work with, if you are still travelling to work.

Whilst there have been advancements in relation to e-signatures these have not yet extended to Wills and so (for now at least) all signatures must be “wet” and made in your presence. You should keep in mind that witnessing a Will through video-conferencing, and even through a window, is not acceptable and you should try and be in the same room as your witnesses but only if the room size allows and it is safe to do so. If this is not possible then you should find an alternative method, especially if you are a vulnerable person. For example if you have a garden, you can sign the Will first with your witnesses at a safe distance and then move away so that each witness can do the same, or perhaps at your front door step with your neighbours overlooking from the side or from the path. Whilst this is not the most practical way to sign a Will, it will ensure that you and your witnesses keep as safe as possible.

The Law Society and Ministry of Justice are looking into ways that the formality of Will signing can be relaxed. It has been suggested that the UK could follow the example of other jurisdictions who do not have such strict rules; for example in Europe where a Will can be hand written by a testator and in doing so does not require a witness. No formal changes have been made in the UK so far but there is a high level of commentary on the topic, so it is likely that the legislation will be addressed in the not too distant future if social distancing is to continue.

We will be following the updates on this closely and provide further information once it becomes available. In the meantime, if you have any questions about making or signing your Will during this time then please contact [Toni Recchia](#) or a member of the [Wealth Planning](#) Team who will be happy to assist.



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