



ESTATE & TAX PLANNING

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Can I Still Make A Will Whilst In Lockdown?

Many essential services have struggled in recent weeks as traditional ways of working become increasingly difficult.

Social distancing measures introduced to prevent the spread of Covid-19 have hindered the way professionals are able to facilitate the increased demand for Wills.

However, rest assured that Wills are still being written. Will writing professionals just need to become a little more creative in the ways they ask testators and witnesses to sign a Last Will and Testament.

What has changed?

Wherever possible, people should stay at home and avoid meeting others to stop the virus from spreading and overwhelming the NHS.

This has had a huge impact on the way Will practitioners complete the Wills process where face to face meetings were usual practices.

Under Section 9 of the 1837 Wills Act, a testator must sign their Will in front of two independent witnesses (witnesses who are not beneficiaries or executors of the estate). Whilst this was fairly easy in the past, quarantine advice makes this process almost impossible.

In order for the sector to continue producing Wills, many practitioners have used innovative solutions. Wills have been witnessed in gardens by neighbours, in empty car parks and even 'drive-through style Wills signings have taken place.

How can I comply with government advice and make a valid Will?

Testators should ensure that witnesses remain at least two metres from the testator and other witnesses and make sure that separate pens are used to sign the document.

Before this stage, the sector has embraced video technology as a way for the legal practitioner to make sure the testator has the mental capacity to make the Will and to understand whether the Will request is being made without undue influence.

This will also be a key opportunity to use technology to ensure the testator's final express wishes are considered and documented.

Whilst the approaches in creating a valid Will are much changed at present, the process remains the same and we remain dedicated in ensuring virus-based restrictions do not prevent such an important document from being written.

Further details of why a Will is important may be found by clicking on the link below:

<https://marcus-bishop.com/estate-planning-for-later-life/>

Can I Still Apply For Probate During Lockdown?

A bereavement is an extremely difficult time but during such uncertainty when services have been significantly reduced, these feelings can exacerbate. Rest assured that Marcus Bishop Associates' probate services is still continuing despite social distancing measures.

Probate is a vital legal requirement and will continue to remain an essential service during the coronavirus outbreak and subsequent lockdown restrictions.

That being said, HM Courts and Tribunals Service (HMCTS) has announced that remote working will mean that applications are taking longer to process and ways of working will need to adapt.

HMCTS is advising professional practitioners and personal applicants to apply for probate online using their MyHMCTS service. While the UK is working remotely, online applications will enable all probate registry employees to access the application from home, helping to create an efficient and faster process.

Probate registries are no longer accepting face to face interviews and are currently working with a skeleton staff or have closed to comply with social distancing restrictions. Therefore, you should not attend any meetings in person. Instead, online email communication as opposed to telephone queries are preferred given the limited number of employees.

What do I need to do before probate can be granted?

1. Secure a medical certificate

A medical certificate signed by a doctor is needed before the probate process can start. If the deceased died in hospital, the certificate will be taken care of by the hospital. Otherwise, the deceased's doctor will need to be contacted.

In these troubling times, given restrictions and increased pressure on medical professionals, this may take a little longer than usual.

2. Register the Death

All deaths should be registered within five days using the closest registry office in order to obtain a death certificate. You will need to take the medical certificate along with any identification documents belonging to the deceased that you have access to.

3. Ascertain whether the deceased had a Will

Finding the Will, if there is one is a crucial part in the probate process. In addition to highlighting the express wishes of the deceased, it will also establish who has been appointed to the role of executor or

personal representative tasked with administering the estate. It will be their job to ensure all liabilities and assets are calculated and distributed to creditors and the beneficiaries laid out in the Will.

If the deceased has failed to explain where a copy of the Will can be found, loved ones could try the National Wills Registry which will check to see if a Will had been made.

If the deceased died without a Will, the intestacy laws will establish who is best placed to administer the estate and will decide who the beneficiaries will be.

4. Collate paperwork, passwords and digital records

Hunting down the paper trail a person leaves behind can be increasingly difficult. Gathering all essential records and documents will help to create a more accurate probate process. All documents that will help to notify organisations like the DVLA, post office, banks, creditors etc. of the death should be found during this stage.

By this stage, the executor will have the information necessary to apply for a Grant of Probate. Obviously, the process to this point is difficult, time consuming and often overwhelming. Our specialist team can be on hand to offer bespoke, accurate advice to minimise delays and ensure the estate is administered smoothly.

If you would like to discuss your Estate & Tax Planning, call David on 020 8670 0917 or email him at: david@marcus-bishop-associates.co.uk.