

The importance of
correct execution of Wills

Why Correct Execution is Required

The correct execution of your Will ensures that your Will is a valid document and that your wishes will be adhered to when your Will is required to be administered on your death.

Execution Requirements

Although rules can be different for other types of legal documents (including the power for execution to be made electronically), the position is different for Wills and is much tougher.

The law governing execution of a Will is perhaps viewed as rather antiquated by modern standards. The execution of Wills is governed primarily by section 9 of the Wills Act 1837 (see <https://www.legislation.gov.uk/ukpga/Will4and1Vict/7/26/section/9>).

Not only for your sake but also for your advisors, having experienced the regulatory impact upon advisors where incorrect Will executions take place, our firm is especially vigilant in ensuring all fundamentals are undertaken and conveyed to our clients.

The fundamentals:

The Will must be a written (or typed) document. It cannot be expressed orally.

The Will must be signed by the Testator (i.e. the person making the Will) in the presence of two independent witnesses. That means that they all must be in the same place together and at the same time.

Any person named in the Will or beneficially interested in the Will is not an independent witness, nor should a wife or husband of a beneficiary or testator witness.

Although not an absolute requirement, it is also advisable not to choose anyone from the immediate family of a person beneficially interested in the Will as an independent witness.

The independent witness must be over the age of 18 and have mental capacity.

A person whose sight is impaired should also not be a witness.

1. The witnesses must both be present when the Testator signs the Will.
2. The Testator must sign the Will opposite the attestation clause, with his or her usual signature (preferably including each initial or forename).

3. The Testator should date the Will in the clause just above his or her signature, using clear words or figures to confirm the date so that it is fully legible.
4. After the Testator has signed and dated the Will, the two witnesses should then (in the Testator's presence and in the presence of each other) sign, print their names and write their addresses and occupations or descriptions underneath the attestation clause. Then the Testator should date the Will at the top of the front cover page (there is a front cover page with this firm's Wills).
5. For witnesses: you must be satisfied that the testator intended by his or her signature to give effect to the Will.
6. Once a Will has been executed nothing further should be attached to the Will by any means (neither a pin or a paperclip or staples or any other fixing).

Example

IN WITNESS whereof I have to this my Will set my hand this ***date in words*** day of ***month in words*** Two Thousand and Twenty Three

SIGNED by the said FULL NAME

in our joint presence and then by us in his/her presence and in the presence of each other

Testator should sign here using their usual signature

Witness (1)

Witness (2)

Signs here x.....x

Signs here x.....x

Prints name x.....x

Prints name x.....x

Address x.....x

Address x.....x

Occupation x.....x

Occupation x.....x

Contact Us

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