

FOCUS

SWW

“THE SUCCESSION LAW EMAG”

IN THIS ISSUE:

HOW DO YOU OWN YOUR PROPERTY?

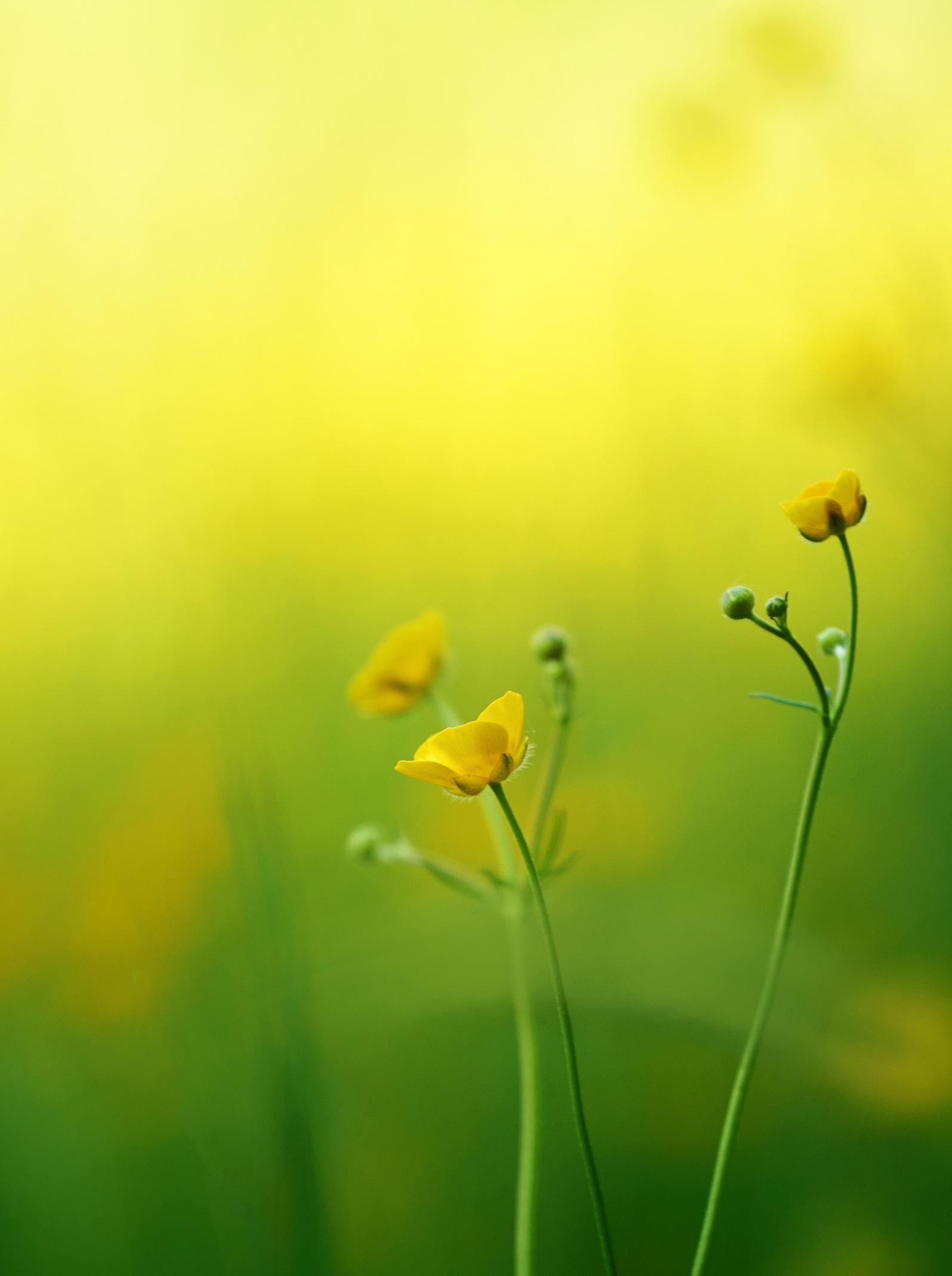
IS THERE SUCH A THING AS A FREE BREAKFAST?

DIGITAL ASSET SECURITY

AND MORE...



ISSUE 8 | SPRING
2018



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A letter from the Director General

Dear Reader,

It may not quite feel, or even look like it outside, but Spring is certainly upon us. The 'Beast from the East' now seems to be behind us and we can look to warmer weather on the horizon.

With Spring comes the latest issue of Focus SWW, now just 1 issue away from 2 years in publication and still it remains the only Estate Planning Emagazine catering to both the consumer and the professional. This issue focuses largely on the importance of safe storage of Wills and the steps you could take to ensure that when the time comes, documents can be quickly and easily found.

Spring is a time for the new; trees begin to blossom, the daffodils grow and lambs are born. Therefore it only makes sense at this time of year to think about either writing a Will if you do not yet have one, or perhaps it is time to update an existing Will to account for any changes in personal circumstances.

I am pleased to say that the Society is continues to grow from strength to strength. The benefits that membership to our organisation brings is attracting more and more entrants from all over



the UK, meaning that wherever you are, there will likely be a member of the SWW nearby. We even have members further afield, making the SWW a truly international organisation.

All members of the SWW are fully trained and insured for the work that they carry out. They can meet with you in the comfort of your own home and at a time that is convenient for you.

You can search for a member using our website, or you can call the office and one of our friendly team will do their best to help you.

Brian W Mcmillan
Director General
The Society of Will Writers and Estate Planning Practitioners

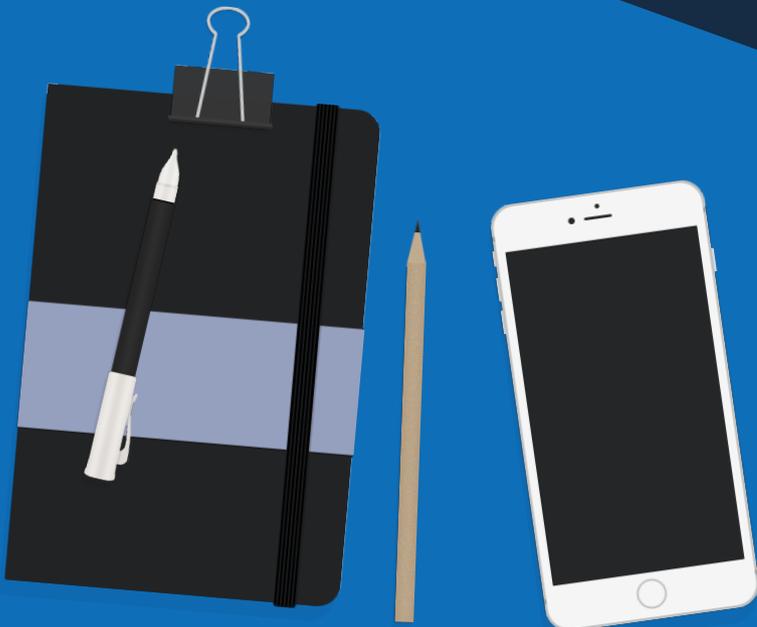


WANT TO MARKET YOUR BUSINESS WITH THE SWW?

The SWW is pleased to offer a variety of advertising opportunities within Focus SWW as well as across our other platforms.

To find out more information, or to see our media pack and rate card, please contact either thomas.s@willwriters.com or anthony@willwriters.com or call 01522 68 78 88

Quarter, half and full page adverts are available within Focus SWW.
All advertisement sizes and specifications are detailed in our media pack.



TRUSTEES

We are commonly asked how many trustees should be appointed as well as just who it is appropriate to appoint. Today we hope to address this.

How many?

How many trustees are required differs depending on whether the trust holds land.

Where a trust holds land, no matter what type of trust, a minimum of two trustees or a trust corporation are required. This is because at least two trustees are needed to give valid receipt for capital monies arising under a trust (e.g. sale proceeds).

Where the trust holds land there may be a maximum of four trustees. If more than four are named then only the first four may act.

Where a trust does not hold land there is no restriction on the number of trustees. That said, it is still advisable to have between two and four trustees so that the trust may later acquire land. It is also best to avoid having a sole trustee to avoid delays in administration if the sole trustee dies or becomes unable to act.

Who?

Trustees should be people who the settlor or testator quite literally trusts, be this a professional, a family member or a close family friend. After all, they are being

trusted to hold their assets and look after the best interests of the beneficiaries.

Every case will be different so there is no hard and fast rule for who should be appointed as a trustee. Who is appropriate may depend on the size and complexity of the trust. It may be perfectly fine to appoint a couple of family members to look after a small family trust for the benefit of the testator's children, but less appropriate to appoint them to administer a complicated and valuable Flexible Life Interest Trust or a trust of the testator's business. In the latter cases trustees with specialist knowledge may be required so it may be more appropriate to appoint a professional trustee; either to act alone or with family members.

Another question we commonly encounter is whether it is acceptable for a trustee to be a beneficiary of a trust. While it is perfectly possible you ought to consider the potential conflicts of interest this may cause. Again, this will vary by case. Potential problems can arise in cases where a balance is not struck or both sides of a family are not represented in a family trust. In many cases it will be fine for the surviving spouse and one of the adult children to act as trustees and be beneficiaries; less so where there is a 'blended family' and there's a risk of conflict between them – remember, the trustees must act unanimously unless the trust deed includes an express power to act by majority.



**RESPONSIBILITY
AHEAD**



IS THERE SU
AS A FREE B



MUCH A THING
BREAKFAST?

IS THERE SUCH A THING AS A FREE BREAKFAST?

Very rare is anything in life free. Those things that are free often have no perceived value and where something is provided for free the cost is often absorbed somewhere else (meaning you still pay for it), or it is free because the provider has an ulterior motive.

Examples of where something is perceived to be free include:

- The swimming pool is free to hotel guests; Realistically the costs of running the pool are factored into the price of the hotels rooms.
- Claim your free gift with your first order. Free gifts are often reliant on return custom and costs of other products might be higher to compensate for the free gift.

When you consider the benefits attached to a free service as oppose to those that you paid for, you should consider the strengths and weaknesses of both arguments.

If a Will is being offered for free then there is almost certainly a cost to the provider and you're likely to pay for this elsewhere through up-sells or add-ons. When a Will writer takes instructions for a Will then this can easily take 2 hours in order for them to take contemporaneous notes. There will then be a cost to to the drafting of the document, the cost of the Will writer's insurance the cost of the will writer's fuel. When you take all these things into consideration then the cost you pay for a Will is certainly more reasonable.

When you consider 'free Will month' run by charities, these campaigns are often funded by charities in the hope that a charitable legacy will be left in the Will or in anticipation of a donation to the charity when the Will is made.

When it comes to Will storage then serious consideration should be given to the value attached to free storage. With a paid package you should look for benefits like certification of safe storage, scanned copies on file, whether there is a dedicated team of staff on hand to

answer storage questions, what the return costs are on the death of the testator and where the documents are held.

In the past the SWW have rescued Will banks from defunct companies and in doing so have seen the reality of where some documents have been stored. A terrible, but true example we have seen was when we collected a small Will bank from a downstairs toilet. Firstly if you're paying for storage you would presumably never pay to have your Will stored in a downstairs toilet which could be at risk of flooding and probably lacks relevant fire safety standards.



Working with an SWW member who chooses to store with The National Will Archive means your documents will be in our safe custody. We have a dedicated team on hand to answer any questions and can help executors retrieve documents very easily when the time comes.

Remember, free may not always be better and rarely do you ever get something for nothing.

What difference can 1% really make?



can make sure

we are here at the end of the phone

can help patients

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can help doctors

diagnose rare liver conditions

can save lives

A gift in your Will of **just 1%** to the British Liver Trust means 99% for your loved ones and peace of mind for the future. British Liver Trust fights for better health services and early diagnosis.

Your 1% can help us carry on that fight.

Contact Audrey Cornelius at the British Liver Trust to find out more **01425 481320**

audrey.cornelius@britishlivertrust.org.uk

www.britishlivertrust.org.uk

**BRITISH
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TRUST**

British Liver Trust
Registered charity in
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in Scotland SC042140



Registered with
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In over thirty years we have rescued and treated many thousands of swans.



Entirely funded by donations Swan Lifeline rescues and treats sick and injured swans.

Much of the work is carried out by volunteers and we rely on legacies for our continued funding.

To find out more about leaving a gift to Swan Lifeline in your Will, please call 01753 859 397, or visit our website, www.swanlifeline.org.uk



Swan Lifeline
Cuckoo Weir Island
South Meadow Lane
Eton Berkshire SL4 6SS

Charitable Incorporated Organisation 1156995



Time Flies When You're Having Fun

2018 started with a bang, actually a few of them as fireworks lit up the skies around the world. Since New Year's Day the time seems to have flown by and the team here at the SWW HQ are wondering how many people have already forgotten to keep their New Year's Resolution.

Whether or not you made the resolution to write your Will in 2018, it's certainly a good idea. Whilst we would encourage you to write your Will as soon as possible we appreciate that for some, with Christmas now out of the way, the financial constraints of Winter will be leaving some families feeling the pinch for another month or so yet.

There are many reasons why writing your Will is a good idea and we can often see a spike in Will Writers workloads as family feuds of Christmas spark changes in gifting wishes.

Here are some of the main reasons we would advise writing a Will in 2018:

- If you have minor children you might want to consider writing a Will. This will allow you to appoint guardians in your Will.
- A Will is a great tool to mitigate tax.
- If you would propose to give money to someone you consider financially

irresponsible then your Will could include a discretionary trust where the power to drip feed money to this person is left in the responsibility of someone more financially experienced or trustworthy.

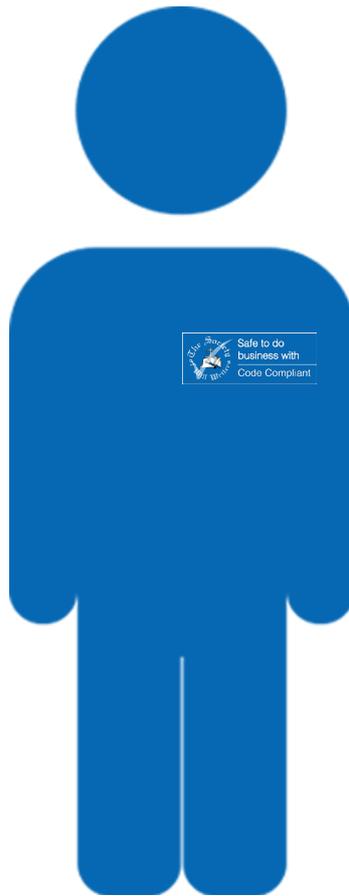
- Your Will would allow you to appoint people or an organisation you would like to handle your estate when you're no longer around.
- If you have remarried and have children from a previous marriage then a Will would ensure that if something happened to you, your children would not be disinherited.
- Funeral planning is often included within your Will. This can save your family all sorts of heartache by giving a little thought to your funeral wishes. These can be listed in your Will or a letter of wishes.
- If you would like to ensure that you can leave a lasting legacy with a charity then writing your Will is vitally important.

For more information please speak to an SWW member or call our office on 01522 68 78 88.

To find a member in your area, visit: <https://www.willwriters.com/members/>

Write a Will.

Who is your Will Writer?



- All SWW Members will provide up to date advice in line with current legislation.
- All SWW Members adhere to our Code of Practice.
- All SWW Members complete compulsory annual CPD.
- All SWW Members carry at least £2m of insurance cover.

If you have doubts about an SWW member give us a call on 01522 687888.
If you would like to join the SWW then please email info@willwriters.com for our information pack or application forms.

YOUR PROPERTY:

HOW DO YOU OWN IT?

When it comes to estate planning it's very important that you know how you own your property. Is your property owned by you or your partner solely? If you own the property together do you know if you own it as 'joint tenants' or 'tenants in common', and what implications this will have for your estate planning?

Property may be held in a person's sole name or jointly with others. If property is held in your sole name you may need to consider what would happen to that property when you pass away and how you should protect your partner. You may want to ensure that they can continue to live in the property after your death, but without gifting the property to them.

If you own the property jointly there are two different types of joint ownership that you should be aware of. The first is 'joint tenants'. When property is held as joint tenants each person owns 100% of the property. Neither owner has a share of the property that they may gift by their will. On the death of

an owner the property passes automatically to the surviving owner, this concept is known as 'survivorship'.

It is possible to change how you hold the property to avoid it passing by survivorship. To do this you should discuss severing your joint tenancy so that you hold as 'tenants in common'.

Where property is held as tenants in common each owner has a defined share in the property. For most couples this will mean that each has a 50% share in the property, but the shares can be unequal if you agree to hold it this way. Holding as tenants in common will mean that you may gift your share of the property to other people by your will, or into trust on your death.

The process of changing from joint tenants to tenants in common is relatively straight forward and involves completing a form for the Land Registry if your property is registered. For advice on how to do this or what you should do if your property is unregistered your local Society Member will be happy to help.







P
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Public Will Search Finds Hit 45% Record High in January & February 2018

All Wills stored with The National Will Archive are automatically registered with Certainty The National Will Register. But what actually is the importance of registering your Wills?

In January and February 2018, Certainty Will Searches undertaken by members of the public have produced some interesting results that are worth noting.

Certainty Will Searches instigated directly by the public (rather than through their Will Writer) resulted in 45% of the searches finding a Will.

The Certainty Will Search team took feedback from 100 members of the public who had undertaken a Certainty Will Search to understand their reasons for searching:

a) 29% believed a Will did not exist and that the estate was intestate but as a PR wanted to safeguard their position by searching

b) 24% held a Will but as an Executor wanted to ensure that a later Will did

not exist and appear after they had distributed the estate

c) 4% were trying to discover if a Will existed because they felt the estate should not have been treated as intestate or the Will used to obtain the grant of probate was not the last Will

In the case of a) this equated to 29 individuals searching for a Will that they did not think existed. The Certainty Will Search found 11 Wills for PRs who say they were adamant that a Will had not been written.

In the case of b) this equated to 24 individual searches by Executors who believed they held the last Will, and had undertaken a search purely as a precautionary and comfort measure. 6 later Wills were found.

In the case of c) one searcher states that they believed a revoked Will had been used that prevented them from receiving certain possessions from the deceased that held sentimental value for them.

A number of these statistics provide real food for thought for a Will Writer distributing an estate who may not be aware that a family member, friend, executor or personal representative may have their own beliefs surrounding a Will, the last Will and who the real beneficiaries are.

Potentially unbeknown to a Will Writer distributing an estate or who has already distributed an estate, people known to the deceased will undertake their own investigations if they feel something is untoward or want protection from an unknown Will coming forward after distribution. In nearly 50% of Certainty Will Searches these public searchers discovered an unknown Will.

Other reasons the search was undertaken included;

- 19% knew a Will had been written and existed but did not know where it was
- 12% were unhappy, believing that the Will being used to distribute the estate had been superseded by a new Will and that there was an attempt to distribute the estate and avoid identifying beneficiaries named in the later Will
- 6% were advised to go online and search by their legal adviser
- 3% were looking for a Will to understand if it contained funeral wishes
- 3% were not a blood relative of the deceased but felt the executor/

administrator distributing the estate was not adhering to the wishes their deceased 'friend' had discussed

Emma-Louise Green, Contentious Probate Solicitor, The Wilkes Partnership, comments: "It is important to consider whether you need to take any enhanced steps to check that the Will that you have been presented with is indeed the last Will. Undertaking a Certainty Will Search can shed some light on this. Sometimes, family members may suspect something to be the case but cannot confirm because the testator is no longer with us to verify questions surrounding their Will. Using Certainty can help to demonstrate that an action was taken to check the factual situation that is being presented to a solicitor, executor or wider family member. It can potentially reduce the possibility of a dispute taking place through a Will coming to light during or after estate distribution. Searches are called for in many legal activities to provide a safeguard or to try to discover unknown information. A Certainty Will Search is no different. The results of the survey demonstrate the usefulness of carrying out such a search no matter how well you thought you knew your client or the executors or personal representatives."

For further information on the types of searches you can carry out please contact us on **0330 100 3660** or email: enquiries@certainty.co.uk

To search for the location of a Will please visit: www.willsearchsw.co.uk



WRITE YOUR WILL

www.willwriters.com



Digital Asset security

important in both life and death...

The population are busy accumulating digital assets. This might be a host of photos on social media, to a small fortune in your betting or PayPal account.

When you think more about it, we seem to live our lives online these days and one of the ways we can easily 'lose our identity' is through having our email accounts hacked. Our email addresses tend to be linked to our social media platforms, bank accounts, utilities, TV contracts and so much more with a potential for untold damage.

Keeping your assets secure is certainly essential. Having secure passwords is incredibly important but remembering these details can be a challenge at times.

With this in mind you or your clients may wish to open a life vault through the Society of Will Writers.

The life vault is opened during your lifetime. It allows you to securely store bank details, passwords, life insurance information, pension statements, and information about shares, videos you've recorded for your family for when you've passed away as well as copies of your Will, LPA and other important estate planning tools.

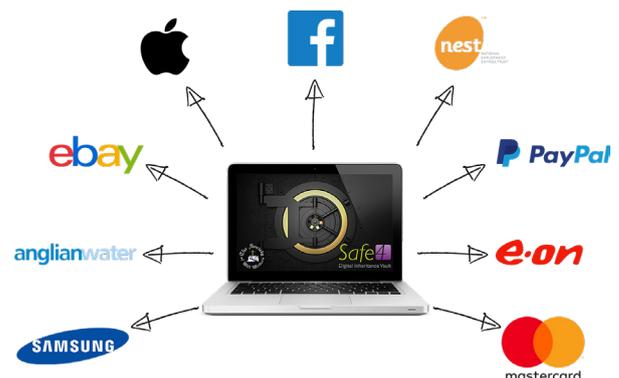
Not convinced? Consider this. You're travelling abroad. On arrival your luggage has gone missing. Your day gets worse, you get mugged and your passport, driving license and wallet get stolen. Here are two possible outcomes:

- You don't have a life vault. You can't prove your identity at the embassy. You can't cancel your credit card with your bank. You can't notify your travel insurance provider what happened without great difficulty.
- You have a vault. Using your secure logins you have access to your travel insurance documents, copies of your driving license, passport and have your national insurance number. In addition you can access your bank details and can notify your bank that your card has been stolen.

There is so much more to the vault than simple storage. The vault can be used to collate all the information an executor would need after a testator passed away. Copies of their Will, or information as to where the original is stored, life insurance information and passwords for online accounts are examples of things that would save time when it comes to probate.

Speak to your advisor about the Safe4 Life Vault, or find a member in your area at:

www.willwriters.com/members





If you have any questions about Wills, or any of the content in this magazine, please contact The Society of Will Writers:

**Chancery House, Whisby Way,
Lincoln, LN6 3LQ**

Telephone: 01522 68 78 88

Email: info@willwriters.com

Web: www.willwriters.com



The Society of Will Writers Trusted Funeral Plan

The Society of Will Writers Trusted Funeral Plan is provided by the Alternative Planning Company Limited in association with Funeral Partners, who are the third largest group of funeral directors in the UK.

Unlike many trust based plans, the Plans are secured by whole of life assurance policies provided by a major life assurance company authorised by the PRA and regulated by the FCA.

The Society, the largest organisation representing professional Will Writers, felt that the time was right to address some of the issues that are found in the market place today when it comes to pre-paid funeral plans.

By purchasing The Society of Will Writers Trusted Funeral Plan you will have secured the services of the funeral director at today's prices regardless of the cost at the time of death. It is a simple way to arrange a funeral whilst protecting loved ones from rising costs and uncertainty about final wishes.

Included in the plan there is also a generous contribution towards disbursements, these costs are beyond the control of the funeral director and so cannot be guaranteed.

More and more consumers are recognising the importance of forward planning, and what better way to ensure financial security for your loved ones and a real opportunity to be remembered than a pre-paid funeral plan.

With the Society's home being in the beautiful cathedral city of Lincoln we have chosen to name our plans after three iconic cathedrals, the Canterbury, which is the 'entry' plan, the Lincoln which is the mid-range and the most popular of our plans and the Salisbury which is our premium plan.

Speak to an advisor in your area today about the The Society of Will Writers Trusted Funeral Plan:
www.willwriters.com/members, or for more information, please visit www.swwfuneralplan.co.uk

“Those you leave behind
will remember your
thoughtfulness”



The Final Word

Why consider a funeral plan?

You should consider a Funeral Plan to deal with the most personal and sensitive of your family affairs and alleviate the financial and emotional burdens that naturally accompany a bereavement.

Planning ahead is important. Here are some of the reasons why people choose to purchase funeral plans:

- Funeral plans provide an opportunity to secure funeral director's services at today's prices, to counter the sharply rising costs of a funeral.
- Often people just don't know what their deceased relative wanted - usually because it's natural to put off talking about it.
- At a time of sadness, you will have relieved your family of a significant financial burden. Those you leave behind will remember your thoughtfulness.
- A funeral plan ensures that your wishes will be carried out and that the funeral director's services will be paid for at no extra cost to your family.
- Savings in a bank or building society is just a sum of money. Your executors are not obliged to spend it on your funeral and it may not keep up with the rising costs of funerals.
- Putting your funeral wishes in your Will is not binding upon your executors - they do not have to carry out your wishes.
- You can choose a funeral to suit your requirements across a range of prices, or you can pay by instalments if you prefer.
- You will receive a welcome letter and certificate which confirms the funeral you have chosen. It also specifies, if you wish, personal details such as religious requirements, gifts to charities in lieu of flowers, music, etc.

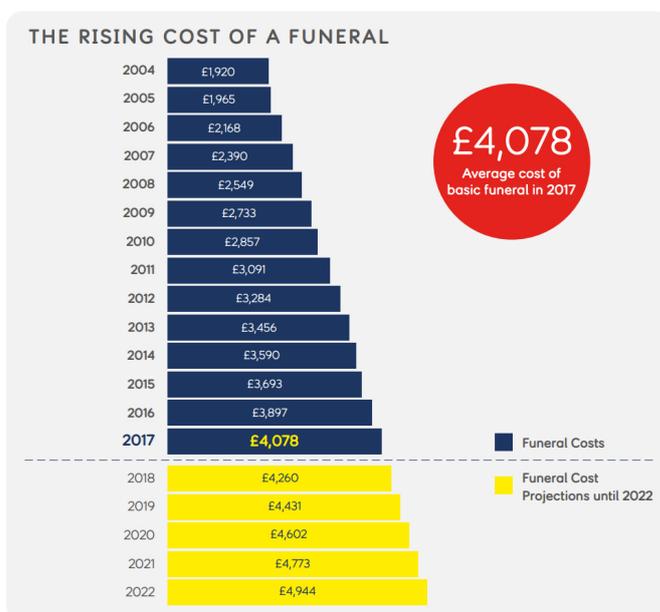
The national average cost of a funeral has more than doubled since 2004

The reality facing us all is that the cost of a funeral in the UK has risen by 90% since 2004 and is predicted to continue to rise significantly in the future.

By choosing to purchase a Guaranteed Funeral Plan, you can secure the cost of the Funeral Director's services, at today's prices, with no more to pay however much they may rise in the future.

Your Money is Secure

Funeral Partners Limited provides exceptional security for your money. All of the invested funds are held securely in a whole of life assurance policy to pay for your funeral service. For maximum security, Funeral Plan funds are held in guaranteed whole of life assurance policies with a life assurance company that is authorised by the Prudential Regulation Authority (PRA) and regulated by the PRA and the Financial conduct Authority (FCA). Funeral plans themselves are not regulated by the PRA or FCA but are regulated by the Funeral Planning Authority.



Source: The SunLife Cost of Dying Report 2017