

FOCUS

SWW

“THE SUCCESSION LAW EMAG”

IN THIS ISSUE:

LASTING POWER OF ATTORNEY JARGON BUSTING

WHY DO I NEED A LASTING POWER OF ATTORNEY?

CONSIDERATIONS WHEN APPOINTING ATTORNEYS

AND MORE...

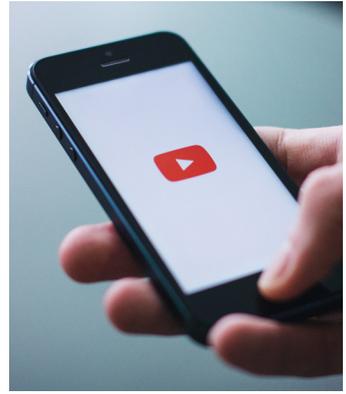
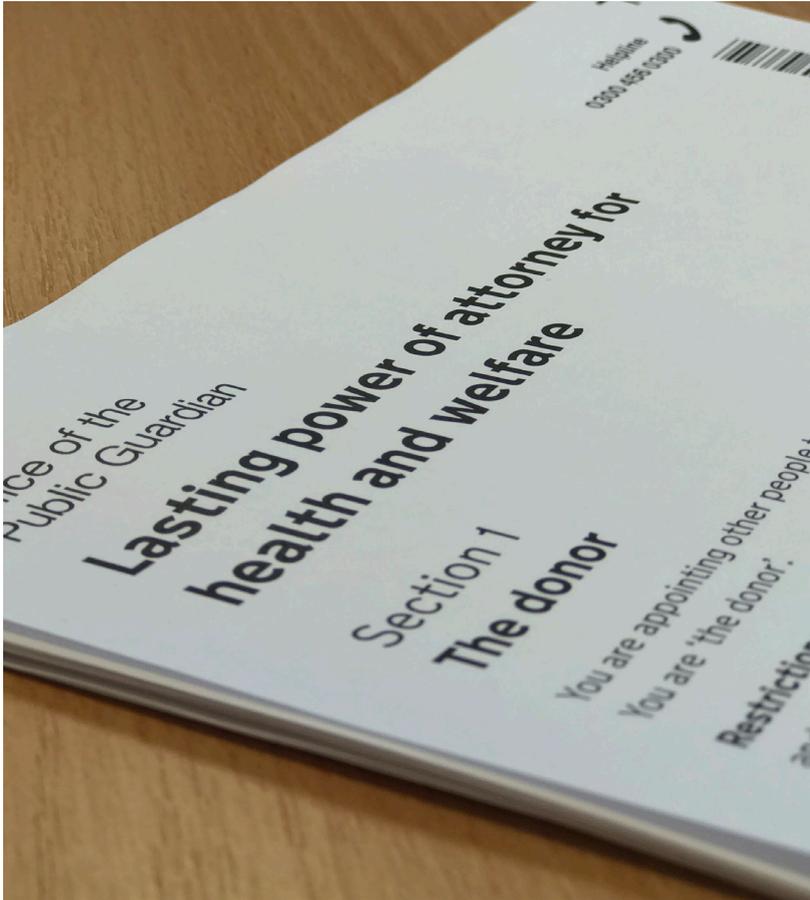


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A letter from the Director General

Dear reader,

Welcome to the Summer issue of Focus SWW. This issue marks our 3rd year in publication and still to this day it remains the only Estate Planning emagazine catering to both the public and the professional covering Wills, Lasting Power of Attorney, Trusts as well as Funeral Planning and much more.

2019 marks for the Society our 25th anniversary, so throughout this issue as well as the issues to come and wherever else you may find a Society presence you will see our celebrations. I am extremely proud of the work the Society does having now grown to a truly global organisation with over 1,600 members across the UK, Central Europe and even further afield such as Asia and the Middle East.

For this issue we've placed a heavy focus on Lasting Powers of Attorney, and the need for a properly trained and insured professional to carry out such services. Capacity can be lost at any time so don't think of LPAs as documents just for the elderly. Also with growing reports of 18-45 year olds suffering from mental health issues, the need for an LPA becomes all the more important.

Whether you're getting a Will, LPA or other taking up other related estate planning services it's important that they're carried out by a trained professional who is insured for the work they do. In this issue you'll find



some useful information on choosing the right person for your needs as well as some information about the different services they can offer and what to look out for.

If you have not yet made any plans as to what you'd like to happen when you're no longer around, there is no time like the present to start thinking about it.

With that said, if you'd like to speak to a member of the Society to see how they can help, you can either visit our website at www.willwriters.com or call our head office and a member of our friendly team will be more than happy to help you.

A handwritten signature in black ink, appearing to read 'Brian W Mcmillan'. The signature is fluid and cursive, with a long horizontal flourish extending to the right.

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

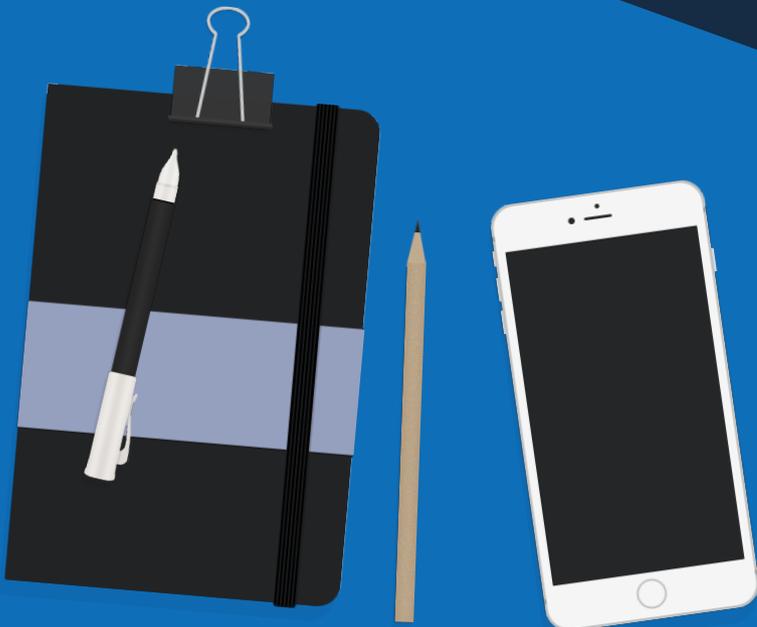


WANT TO MARKET YOUR BUSINESS WITH THE SWW?

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 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.



Lasting Power of Attorney

J A R G O N B U S T I N G

A Lasting Power of Attorney (LPA) is a very important document that allows you to appoint people who you personally know and trust, or professionals, to make decisions on your behalf and look after your best interests should you lose capacity.

There are two main types of LPA. A Property & Financial Affairs LPA covers your financial decisions, whereas a Health & Welfare LPA allows someone to make decisions about your personal health and care. You can have both types or either.

An LPA is a legal form but completing one doesn't have to be a daunting task. Let's clear up some of the legal jargon used on the forms!

1. Donor

You! This is the person who is making the LPA and appointing people to make decisions on their behalf in the event of their incapacity. They are the 'donor' of the power.

2. Attorney

The attorneys are the people who the donor appoints to make decisions on their behalf. You can have a single attorney or multiple attorneys acting together. It is also possible to appoint professional attorneys, but make sure you talk to them about their fees first.

The attorneys you choose must be over 18 at the time the LPA is signed and must have mental capacity. If you are making a Property & Financial Affairs LPA your attorney cannot be bankrupt or subject to a debt relief order, but this doesn't matter for Health & Welfare.

As the donor you get to decide how the attorneys act if you have appointed multiple people. This could be jointly so they must make all decisions together, or 'jointly and severally' so they can make decisions together or individual attorneys can make decisions alone. There is also a third option that combines these two. This allows you to state that some decisions have to be made jointly, and everything else jointly and severally.

3. Certificate Provider

This is the person who signs your LPA to confirm that you have capacity and you aren't subject to any fraud or being pressured into making it. There are two categories of certificate provider; personal and profession.

A certificate provider acting in a person capacity must be someone who has known you for at least two years. This cannot be a member of your family, so good choices may be a friend or neighbour.

A professional does not need to have known you for two years, but they must have relevant professional skills. This could be your GP, a solicitor, or your Estate Planner.

There is quite a long list of people who can't act as your certificate provider. Your Estate Planner will be able to give you advice on who is appropriate.

4. People to Notify

These are the people you name on your LPA because you want them to be informed when the LPA is sent off to the Office of the Public Guardian (OPG) to be registered. They will each receive a form letting them know about the pending registration, and they will then have 3 weeks to raise any concerns about this with the OPG.

The form they receive sets out the grounds they could object to the registration on. For example, they believe you revoked your LPA while you still had capacity, or they believe the LPA was not valid because you didn't have capacity to make it.

You don't have to name any people to notify on the form, but it's a good safeguard if you are choosing not to register your LPA straight away!

5. Life-sustaining Treatment

This is only relevant to the Health & Welfare LPA. Life-sustaining treatment is any treatment that the person providing your medical care believes is necessary to sustain your life. It's up to your doctor to decide whether treatment is life-sustaining.

What jumps to mind when asked about life-sustaining treatment? If you immediately thought of emergency surgery or ventilation you aren't alone, and you wouldn't be wrong. But did you know that what treatment is 'life-sustaining' depends entirely on your circumstances? What may not be life-sustaining for one person may be life-sustaining for you. A common example is a simple prescription of antibiotics.

In your Health & Welfare LPA you must state whether your attorneys can or cannot make decisions about life-sustaining treatment. This is a big decision, and if you want to grant your attorneys this power it's a good idea to talk to them about any treatment preferences you might have.

ARE THEY A MEMBER?



For the team here at head office not a day goes by where somebody doesn't call us to find a member whose services they can use, or to check if someone they're considering using is a member. Whether they're looking for Wills, LPAs, someone to look over some existing documents or even just provide them with some advice, the 1,600 members we have across the UK as well as Europe and even further afield mean it's very rare that we find ourselves unable to point them in the right direction. Occasionally however, a caller has some concerns over the person, or company that they're considering using, or have already used and whether or not this is going to cause any problems for them.

If you weren't aware, Will writing is an unregulated profession and as such we always advise to check in the first instance that whoever you're considering engaging for legal services belongs to either a voluntary self-regulatory body such as The Society of Will Writers, or, if they're a solicitor you should check that they're registered with the Solicitors Regulation Authority. Membership to The Society of Will Writers carries with it three mandatory requirements. These are holding a minimum of £2m professional indemnity insurance, completing regular training through ongoing CPD as well as adherence to our Code of Practice. We also audit our members on an annual basis to ensure best practice and all this together is what makes our members safe to do business with.

Our membership is on an individual basis, so it's only ever the person who is registered as a member and not the company as we do not have any kind of corporate/company membership. All Society members are issued

with a unique ID number as well as an ID card. They are expected to carry these with them when meeting with clients so don't be afraid to ask them to present their ID card to you. If you're ever unsure you can always check with us to see if someone is a member by looking on our find a member page, although not all members have a web listing, or call us and we will check our records for you.

If they're not a member, there's no need to panic. Whilst we'd love for all will writers out there to join the Society, we realise that for as long as the industry remains unregulated and the will writer has a choice in the matter, this is unlikely to happen. They could be a member of other membership bodies like ours, or they could be registered with the SRA so you may want to check elsewhere. It just means that it's important you do your due diligence before inviting anyone into your home or handing over any money, because without the backing of a professional body you may not have any protection should anything go wrong. Occasionally something does go wrong, but where the person in question isn't a member there is unfortunately little we can do. We only have powers over those who are registered with us, in which case you may need to turn to a solicitor or your local trading standards for help.

Always be sure to look out for the Society logo, our special 25th anniversary logo or our Safe to do business with logo.



WRITE YOUR WILL

www.willwriters.com



WHY DO I NEED AN LPA?

A Lasting Power of Attorney ('LPA') is a document which legally enables one or more individuals you know and trust, your Attorneys, to have the Power to make decisions on your behalf if you lose Mental Capacity ('capacity'). Unlike a Will which deals with your estate when you are no longer here, an LPA deals with your Financial and Care decisions while you are alive but lack capacity. There are two types of LPA; a Property and Financial LPA, and a Health and Welfare LPA.

1. CHOICE

When capacity is lost and there is no LPA in place, the only alternative is an application for a Deputyship order which is submitted to the Court of Protection. With a Deputyship application, anyone over the age of 18 can apply to the Court of Protection to be your Deputy to make Financial decisions on your behalf. If your Deputy is over the age of 18, they have the necessary financial skills, and if nobody objects to the application, then deputyship will be granted. The appointed deputies may not necessarily reflect your intentions. Without an LPA in place, you would be giving up your power of choice and leaving it to the Courts to determine who should make decisions on your behalf and how those decisions are to be made. Take your power back, and do not let a stranger or someone you may not have chosen yourself take control over your Financial and Care decisions. In the case of a Property and Financial LPA, you can also specify whether your Attorneys can use the LPA immediately upon registration, or only when capacity is lost.

You also gain control over exactly how your attorneys can act. You can appoint your Attorneys to act (1) jointly, (2) jointly and severally, or (3) jointly for some decisions but jointly and severally for other decisions (the hybrid power). Without an LPA in place, you would be putting your family and relatives in a difficult situation when they have to decide who is to act on your behalf if you lose capacity.



PLAN FOR THE FUTURE

Contrary to beliefs like, "I would never need an LPA", or "My next of kin will get the final say", the reality is that everyone needs an LPA, regardless of age or current mental health status. A former Lord Chancellor and Secretary of State for Justice said in 2007 when LPAs were first introduced,

"We all know how important it is to plan for the future. Having a Lasting Power of Attorney (LPA)...in place should be as common and natural as making a Will".

Less than 1% of the adult UK population has an LPA. However, 1 in 3 persons on average over the age of 65 in the UK develop dementia (Alzheimer's Society), and every 90 seconds someone in the UK, is admitted to hospital with an acquired brain injury (Headway). The following are four reasons why you should make and register one or both types of LPA.

2. COSTS

For the Court of Protection to grant permission for a Deputyship order the initial Court application fee is £385.00 and this excludes legal fees, and the ongoing annual fees payable to the Court of Protection. The registration fee to register one LPA, be it (a) Property and Financial or (b) Health and Welfare with the Office of the Public Guardian ('OPG'), is £82.00 only, payable to the OPG by cheque or card. Factoring in the initial costs, any legal fees and the ongoing supervision charges, having an LPA completed and registered is by far the more cost effective and reasonably priced solution compared to applying for a Deputyship order.



4. INSTRUCTIONS

LPAs allow you to specify any preferences you would like your Attorneys to be aware of when they start dealing with your Property and Care decisions. Preferences are non-binding expressions of wishes that your Attorneys are expected to keep in mind when making decisions on your behalf. LPAs also allow you to make known any Instructions you may have for your Attorneys. These are legally binding and your Attorneys must follow them. As part of your instructions, you can grant your Attorneys access to your digital assets, online bank accounts and your Will. You can also use the Instructions section of your LPA to make known any charity donation wishes and you can also give any Discretionary Investment Management instructions.

3. TIME

To register an existing LPA with the OPG takes anywhere between a minimum of 4 weeks and a maximum of 16 weeks. When capacity is lost and there is no LPA in place ready to be used, a Deputyship application would have to be submitted so that at least one deputy is appointed to act. To process a Deputyship application through the Court of Protection can take 6 months or more and this is at a time when you will have already lost capacity and the appointment is desperately needed. A Deputyship application is a more time-consuming undertaking, compared to the shorter time required to create and register an LPA in advance with the OPG.

THE EARLIER AN LPA IS CREATED AND REGISTERED THE BETTER

With an LPA document in place, you have peace of mind and full estate planning control. You would have specifically selected your Attorneys and given them authority to make Financial and Care decisions on your behalf. LPAs allow you to choose any Replacement Attorneys and even a professional Attorney (such as a Trust Corporation), in case your primary Attorneys are unable or unwilling to act. Finally, if you lack capacity but your Property and Financial LPA is not registered, your Attorneys would not be able to access your bank accounts to pay for expenses such as care home fees until after they validate your LPA when it is officially stamped and registered with the OPG. If you hold an account jointly with someone else they will find themselves unable to operate the account until an LPA or Deputyship order is produced to the bank.

To find out more about creating and registering an LPA please contact The Society of Will Writers on 01522 687 888, and a member of the Society based in your area will be happy to assist.

SWW CELEBRATES 25 YEARS

We're incredibly proud to report that
The Society of Will Writers is celebrating
25 years trading this year.



When the SWW was first formed in 1994 it had a very simple objective – To provide a framework of support and self-regulation for will writers. Combined with this, we sought to highlight the need for a will amongst the general public.

Since 1994 we have grown to become the largest organisation of our type. We provide support and assistance to over 1600 members who span not only the United Kingdom but across the world.

We take pride in providing a voice for our members when we meet with leading industry stakeholders like the Competitions and Market Authority (CMA) or with the Legal Services Board (LSB) and have been involved in many discussions surrounding the regulation of Will writing – which we expected in 2013.

Over the last 25 years we've adapted, grown and developed.

It had been said in the early 1990's that an organisation like ours would never work. This did nothing but give us the determination to press forward and prove the nay-sayers wrong. Our members now write in excess of 250,000 Wills per year.

One thing that has changed over the last 25 years is that we've seen changes in the complexity in the make up of someone's estate. It's much more common for someone to divorce and remarry, we're seeing blended families, and legislation surrounding estate planning has changed. The need for professional advice is much more apparent and our members have risen to meet the demands of the public.

It's great to look back over the achievements that the SWW have made. Achievements like launching a dedicated training facility – the College of Will Writing back in 2014, launching a storage facility to ensure that

a Will could be stored safely without the fear of it being lost and of course providing a source of information to members of the public.

As well as reflecting on what has been a rich history, we're planning well into the future too. The work our Professional Standards Board are doing will inform the direction the SWW take over the next 25 years. One thing we are sure about is that we'll continue to drive the profession forward through clear and transparent membership requirements.

We'd like to issue a big 'thank you' to our members for their continued support and dedication and encourage those that would like to forge relationships with us over the coming months to get in touch.

We're raising a glass to the next 25 years!

WHAT SHOULD BE CONSIDERED WHEN **APPOINTING ATTORNEYS?**

Making an LPA is an important decision. Great consideration should be given to how many attorneys are needed, who is going to act, and how they will make decisions; after all these are the people who will be responsible for making decisions on the donor's behalf and looking after their best interests.

Ultimately the decision on who to appoint as an attorney is the donor's alone, and the Mental Capacity Act 2005 Code of Practice makes this clear:

“7.8 A donor should think carefully before choosing someone to be their attorney. An attorney should be someone who is trustworthy, competent and reliable. They should have the skills and ability to carry out the necessary tasks.”

But the drafter must still make sure they can guide the donor through the process.

1. CAPACITY

One of the first things to consider are the attorney's own age and capacity. An attorney must be over 18 at the time the LPA is created and must themselves have the capacity to act. For obvious reasons it is unwise for the donor to appoint someone much older than themselves, or whose capacity is questionable for any reason.

When taking instructions for a Property & Financial Affairs LPA the donor should be made aware that a person who cannot act as an attorney. If they become bankrupt at any point their appointment as an attorney will be revoked. This can easily leave an LPA in jeopardy. The donor would be well advised to think about their proposed attorney's own relationship with finances before giving them authority to manage their own financial affairs. This does not affect a Health & Welfare LPA.

On the point of capacity, would the attorney be able to make the decisions they may be asked to make? If the donor of a Health & Welfare LPA is giving authority to refuse life sustaining treatment they need to be sure that their chosen attorney would be capable of making this difficult decision.

2. COMPLEXITY

This is more relevant to P&F LPAs. Is the donor's estate complex? Do they have a myriad of investments or a property portfolio that needs to be managed? Maybe they have business interests that need to be dealt with separately.

The donor must consider whether they need to appoint someone with special skills to manage their assets. This may be a professional like an accountant to manage their investments, or even an individual that they know has the appropriate skills and experience. When considering professional attorneys make sure to also consider their fees.

This is most true of 'Business LPAs' where it is important to the business that the attorney has knowledge of the business and preferably experience in it. In some cases, the chosen attorney may also need have certain qualifications and be subject to the same regulation as the donor. Take for example the Managing Partner of a solicitor's firm; they would only be able to appoint another suitably qualified solicitor as their attorney to make decisions regarding the firm.

3. HOW MANY?

It's possible to appoint a sole attorney. The forms have space for four attorneys and two replacements, but there is no upper limit on how many attorneys can actually be appointed. That said, it's never usually wise to appoint more than four attorneys and the Office of the Public Guardian (OPG) don't encourage this.

Regard should be had to whether replacement attorneys are needed. Who would the donor want to make decisions for them if any of their first choice of attorneys were unable to? If the donor is appointing a sole attorney they should absolutely be encouraged to consider a replacement. If their sole attorney becomes unable to act then the whole LPA will fail without a replacement.

4. HOW SHOULD THEY ACT?

If appointing multiple attorneys, the donor will need to decide how they will act. There are three options. Jointly, jointly and severally, and jointly for some decisions but jointly and severally for all others (the hybrid power).

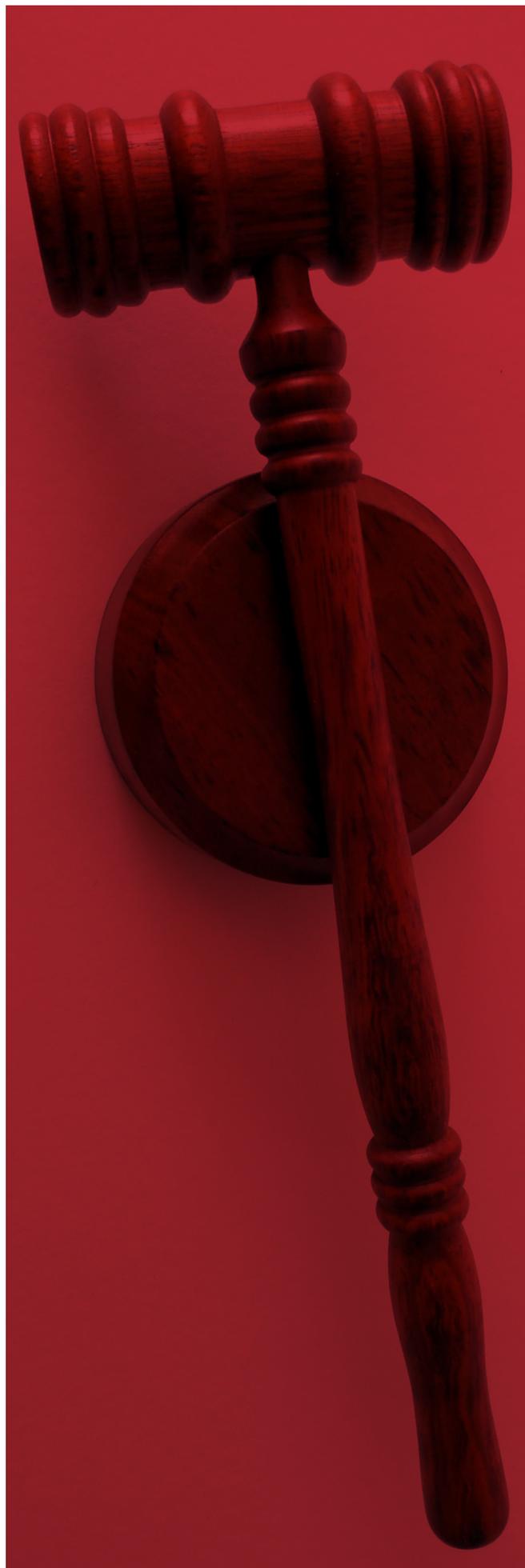
This is an important decision and needs to be well thought out. The donor should be made aware of the advantages and pitfalls of each type of appointment. If they are considering appointing attorneys to act jointly they especially need to be aware of the effect on their LPA should any of their attorneys become unable to act.

5. JOINTLY OWNED PROPERTY

It is common for donors to appoint their spouse as their sole attorney. You should note that this can cause an issue if the donor and their spouse own property together. All jointly owned land in England & Wales is held on a trust of land, usually with the joint owners holding the property on trust for themselves. When transferring the land, a minimum of two trustees are required to give good receipt of capital monies, overreaching any underlying beneficial interests.

If one owner has lost capacity and their sole attorney is also the other owner the attorney cannot give receipt in their capacity as both owner and attorney; two separate signatures are required. In such a case the attorney would have to take extra steps to appoint a co-trustee to act with them under s36(6)(b) of the Trustee Act 1925.

This has covered only what I feel are the main points to think about when appointing attorneys. There are also factors that have not been touched upon that will be very personal to each donor, for example would it be practical to appoint their relative who lives abroad? Can they afford a professional attorney's fees? We also mustn't overlook the proposed attorneys' relationship with each other. It's important that they get along well enough to make decisions together. This is even the case when appointing different attorneys for both types of LPA as there will inevitably be some overlap for certain decisions.





SWW Trust Corporation provides friendly, efficient and professional executorship, trustee and attorney services, with competitive, transparent pricing.

Probate Services

Executorship can involve a great deal of time, effort, stress and even financial costs, all of which can be overwhelming at a time of emotional distress.

Our business is built exclusively on providing Trustee and Executor services, you'll get the very best service and advice available. Unlike solicitors or banks we are specialists not generalists.

Because this is all we do you can be assured you are receiving the highest level of service available from professionals who want to provide you with peace of mind.

We offer a Grant assist service or a full estate administration service to help you navigate the maze of probate. This will all be done in a transparent and inexpensive way.

Trustee Services

Choosing a close friend or family member as an Executor or Trustee runs the risk of subjectivity and opinion creeping in.

By appointing an impartial body like SWW Trust Corporation you can avoid any possible conflict of interests and avoid the heavy burdens that the law places on trustees.

We have over 10 years' experience of managing trusts to ensure that the wishes of the settlor are carried out and to ensure the trusts are managed professionally.

Professional Attorney Services

A lot of the work we do means we are dealing with vulnerable clients or someone experiencing emotional distress.

We take an empathetic approach to the way we work.

Our personal service means we can act as a professional attorney making sure the decisions we make for you are made in your best interests.

We use our expertise to encourage you to make any decisions for yourself but will be on hand to help when it is required.

Executorship...

COULD YOU DO IT?

What is an Executor?

An Executor is the person or people appointed by a Will to deal with the affairs of the deceased.

Duties and responsibilities of Executors

As an Executor, you are responsible for identifying all assets and liabilities held by the deceased. With this information, you must then complete the relevant inheritance tax forms as accurately as possible before applying for Probate, should this be necessary. Once you receive Probate, you must then settle all debts and liabilities from estate funds, before accounting to beneficiaries for their inheritance.

Risks of acting as an Executor

Being an Executor is a demanding role and can prove to be time consuming and stressful. If the administration process is not correctly adhered to then there can be various repercussions which may not be obvious to a lay person.

As Executor, you can be held personally liable for mistakes and negligence when administering to an estate. If you are not familiar with the administration process, it is easy to make mistakes such as submitting an incorrect tax account, not adequately protecting an unoccupied property or failing to contact all relevant organisations.

Where mistakes are made, there can be serious consequences. Failure to disclose relevant assets or liabilities on tax forms can mean that penalties are incurred or in extreme cases you can even be prosecuted for fraud.

Failure to pay inheritance tax when it is due can accrue unnecessary interest on the balance due which you will be responsible for paying. Failure

to correctly identify the extent of a beneficiary's entitlement, or to omit payment of a legacy altogether, can lead to complications once the estate has been distributed as you will be held responsible for resolving such issues.

Another crucial aspect of Executorship is ensuring that estate funds are kept separate from your own personal funds. You must open a separate client account for this purpose. Failure to do so can be treated as misappropriation of funds and can cause difficulties in identifying payments, interest and tax.

In addition to the above, one other important point to consider is the concept of intermeddling. As an Executor you are free to renounce your role as Executor if you feel the administration is too difficult or you do not wish to undertake this duty. This must be done at the very beginning, as any action you take in your capacity as an Executor can result in intermeddling meaning you are prohibited by law from standing down as an Executor. Where an Executor has intermeddled they must fulfil their duty and will be liable for their actions. A minor task such as payment of a small utility bill can result in intermeddling.

Why should you appoint a professional Executor?

By appointing professional Executor, you can rest easy knowing that the administration process will be dealt with by a dedicated and experienced team. A professional Executor will relieve you of any stress and burden at what is a difficult time. More importantly, a professional Executor will take on the liability associated with the administration of an estate and will be fully insured in the event of any issues arising.



WHAT TO LOOK FOR IN A WILL WRITER

If a Will Writer is a member of the Society of Will Writers and Estate Planning Practitioners, we expect that they abide by our three compulsory requirements of Membership. These include ongoing training and development, code of practice compliance, and a comprehensive insurance

policy to cover their estate planning activities. Choosing a qualified and knowledgeable Will Writer based on their track record, their expertise and how they work, should be of paramount importance. Trust is spelled out and unpacked below as part of 5 considerations you should keep in mind when choosing a Will Writer.

TRAINING, SKILLS AND EXPERIENCE OF WILL WRITING

The first mandatory requirement of SWW Membership is Continuous Professional Development (CPD) mainly but not exclusively through the Society's College of Will Writing. As Estate Planning Practitioners, all SWW Members are required to complete a minimum of 24 hours CPD a year which ensures their knowledge is up to date. Be sure to check the academic and professional qualifications your Will Writer has received as part of their training so you know you can trust the advice they are giving and that it is up to date.

REGULATED BY THE SOCIETY'S CODE OF PRACTICE

The second mandatory requirement of Membership with the SWW is adherence to our Code of Practice, including our 10 Membership Principles. Will Writing is

currently not regulated by statute, but that does not mean that professional standards should not be imposed. Ensure that your Will Writer, is working with a high sense of duty and integrity. Society Members work in accordance with a methodical process whereby client care is of utmost priority, as set out in our Code of Practice. Find out whether your Will Writer is Code compliant by, amongst other things, checking if they display the Society's 'Safe to do business with' logo.

UP TO DATE PROFESSIONAL INDEMNITY INSURANCE

The third mandatory requirement of Society membership is to hold a minimum of £2m Professional Indemnity Insurance. The Society has an insurance scheme in place with our Partner Jelf which members are welcome to use, however, they may have insurance elsewhere which meets our requirements. It is important to check that your Will Writer is a Member of ours, and their insurance is up to date.

STORAGE SERVICES THE WILL WRITER CAN PROVIDE

Once you are satisfied that your Will Writer is a Member of the SWW, it is advisable to discover what, if any Document Storage services they can offer. Secure and dedicated Will Storage ensures that a Will can be discovered when it is needed. As such, Document Storage is as important as the process of drawing up the Will in the first place. Members of the Society are welcome to store Documents with our own safe storage facility, the National Will Archive. Check whether your Will Writer, (1) offers Professional Document Storage with a dedicated storage provider such as the National Will Archive, (2) stores Documents themselves, or (3) leaves clients to self-store all Documents at home.

TERMS OF BUSINESS AND COMPANY LITERATURE

Members of the Society are welcome to use a template Terms of Business document we provide. Many Will Writing companies, however, have their own terms and conditions in place and you should be aware of your rights and your Will Writer's responsibilities. Does your Will Writer have a robust complaints procedure in place? Is your Will Writer transparent with their fees or are their fees listed as 'price on application'? Have they explained how your data will be handled and do they have a data privacy policy in place? What about the information on their website?

CARRY OUT AS MUCH RESEARCH AS YOU CAN BEFORE ENGAGING A WILL WRITER

Use the checklist outlined above to your advantage when shopping around for a Will Writer. To check the Membership status of a Will Writer or Estate Planning Practitioner, please contact the Society of Will Writers on 01522 687 888 or visit our Find A Member page. If you are ever unsure about whether a Will Writer meets any of our three mandatory requirements, you should contact us and we will be able to help. Our friendly and helpful team would be able to provide verifiable Membership information of any Member, as well as answer any other questions you may have.

R E M E M B E R :

- 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 application forms or an information pack.

How do I know if my Will is valid?

We're very often asked the following questions:

'How do I know if my Will is valid?'; 'How long does my Will stay valid for?' and; 'Can I make any changes to my Will?' The following article will address these questions as well as some rumours that we've heard over the past few weeks regarding the validity of Wills.

'How do I know my Will is valid?'

As soon as your Will has been signed correctly it becomes a valid legal document. You must also have two witnesses present with you as you sign the Will. Your witnesses can be anybody you like, but they cannot be beneficiaries or be married to or is a civil partner of a beneficiary otherwise they would not be entitled to gain anything from the estate.

We have heard reports of people in certain professions such as teachers being contacted to tell them that the law has changed thus invalidating their Will. Another rumour is that after 3 years have passed a Will is no longer valid, however this is simply not the case as there are no time limits placed on Wills. Once it is signed it becomes a valid legal document and will stand until you either write a new one or destroy it. It is worth bearing in mind that marriage revokes a Will unless the Will says otherwise.

'How long does my Will stay valid for?'

'Can I make any changes to my Will?'

It is advisable to review and update your Will periodically, usually every 3-5 years, especially if there are any changes in your personal circumstances such as marriage/divorce or the birth of any children/grandchildren that you'd like to provide for. If you think your Will needs changing or updating in any way, we strongly advise against making any amendments yourself. Please do not write on, or pin/clip anything to your Will as this can often lead to questions around your intentions

and may also not be legally valid. It may also lead someone to believe your Will has been tampered with which could bring about a claim on your estate after you have passed potentially causing a lot of heartache for your family and unnecessary expense.

If you need to make any changes, small additions can be made by way of a codicil however it's advisable to instead have an entirely new Will written to avoid any uncertainty. Most Will Writers offer update services and will keep in touch during your lifetime to ensure that your document still suits your needs. However, if you're ever unsure the best thing to do would be to contact them or the Society to seek advice.

If you do not yet have a Will and would like to speak to a member of the Society to get started, please visit our find a member page, or give us a call on 01522 687 888 and a member of the team will be more than happy to help you.

Mr John Doe, to give effect to this Will, as

SIGNATURE
John Doe

10/19

from this Will was signed first by Mr John Doe in our presence and then by both of us in the presence of Mr John Doe.

Witness 2
SIGNATURE

Jane Smith

Full name

Jane Smith

Address

94 Old Lane

Lincoln

Phone

Witness 1
SIGNATURE

Barry Paul

Full name

Barry Paul

Address

82 Young Street

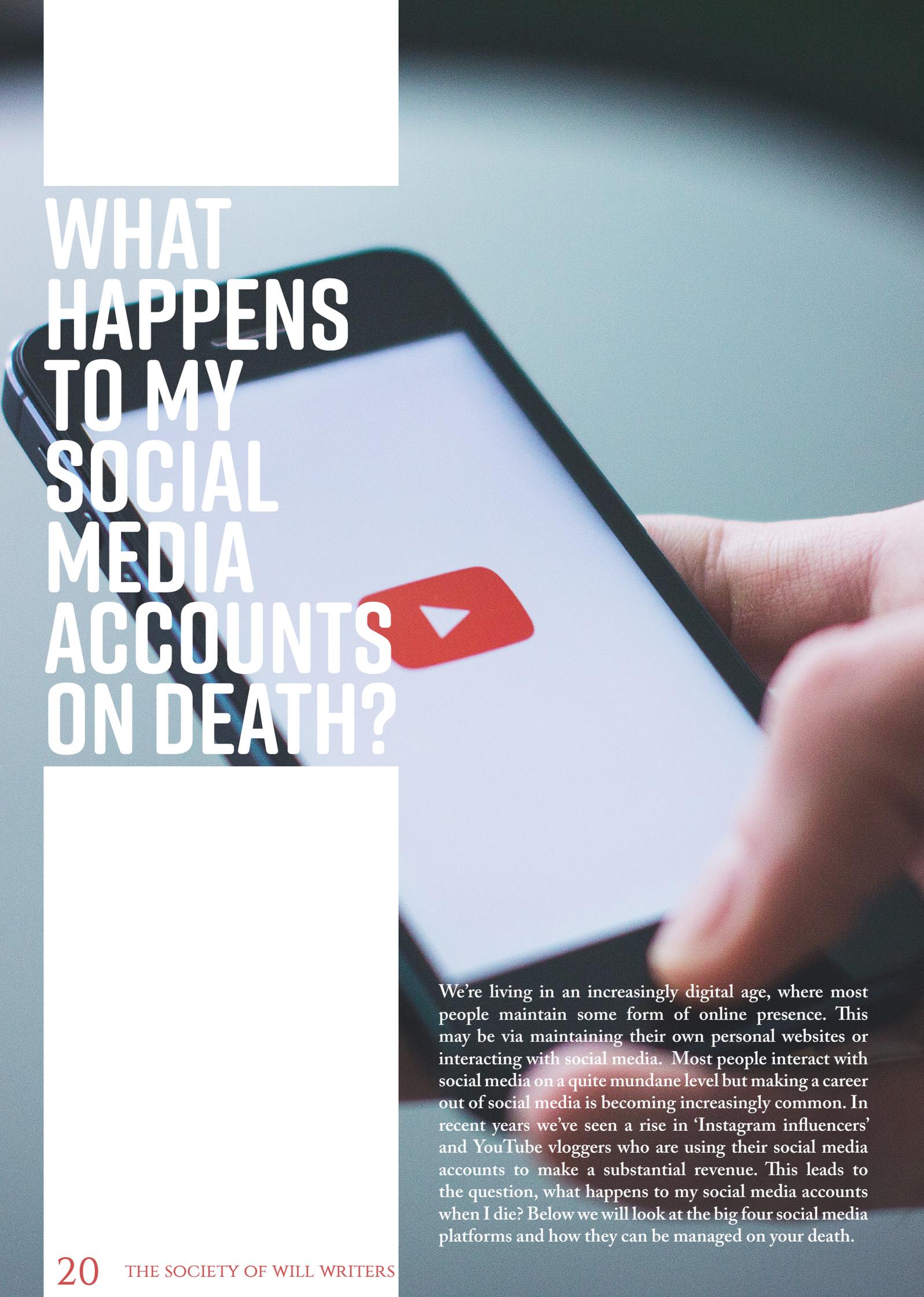
Lincoln

Phone

01234567890

Occupation

Bin Man

A hand holding a smartphone with the YouTube logo on the screen. The background is a blurred teal color.

WHAT HAPPENS TO MY SOCIAL MEDIA ACCOUNTS ON DEATH?

We're living in an increasingly digital age, where most people maintain some form of online presence. This may be via maintaining their own personal websites or interacting with social media. Most people interact with social media on a quite mundane level but making a career out of social media is becoming increasingly common. In recent years we've seen a rise in 'Instagram influencers' and YouTube vloggers who are using their social media accounts to make a substantial revenue. This leads to the question, what happens to my social media accounts when I die? Below we will look at the big four social media platforms and how they can be managed on your death.



Facebook is probably the biggest social media platform in existence, dwarfing Twitter, LinkedIn, and other well-known websites and boasting 2.38 billion monthly active users (Facebook investor relations report 24/04/19). If you're one of those regular users you've probably built up quite a profile, likely filled with pictures, videos, and memories and you need to decide whether you want to share these or delete them forever on your death. Facebook allows a number of options for dealing with a deceased users account.

The first option allows you to plan in lifetime for what will happen to your account on death. You can appoint a 'Legacy Contact' to look after your account should you pass away. This Legacy Contact will then have access to your account after your death and manage it in future with a few restrictions. The Legacy Contact may manage your account, memorialise it, post a final status update, and update your profile and cover photos. If you've given them permission they can also download a copy of everything you've ever shared on Facebook.

What a Legacy Contact can't do is log into your account, remove or edit any past posts, comments or photos you've made, remove friends, or read any of your private messages.

The second option allows you to tell Facebook that you want your account to be permanently deleted on your death. As with assigning a Legacy Contact this can be requested in lifetime through the options in your Facebook account.

The last option is to request that your account is memorialised on your death. If Facebook become aware of your passing and you have not opted to have your account deleted on death, then your page will be memorialised so friends and family can still view your profile and any content you've shared.



Firstly, lets address who actually owns the photos you post to Instagram. You own the copyright to any images that you post to Instagram but give them a non-exclusive and royalty free licence to use and distribute the content that you post.

Instagram's deceased user policies are similar to Facebook's, which is to be expected as Facebook are its parent company. When you pass away your Instagram account can either be permanently deleted or memorialised. The difference here though is that you can't plan for this in lifetime, so what happens to your account will be down to your family. What you might want to consider instead is leaving clear instructions in your Will as to what you want to happen to your Instagram account. Your executors or your family can't be given access to your account, and there is no tool to download all of the content you've uploaded to it, but they can be directed to contact Instagram to delete or memorialise it.



Twitter doesn't have any policies in place for memorialisation or allowing a family member access to your account. All they offer is permanent removal of a deceased users account, and they express that they will work with an individual who is authorised to act on behalf of your estate. Again, you can leave instructions in your Will for your executor to contact Twitter to have your account removed. Twitter will ask for your account username, your full name, the executor's relationship to you, as well as their full name and email address. They will also need a copy of your executor's ID and your death certificate before they can close the account.



The video sharing website YouTube attracts millions of users per month, and for dedicated vloggers it can earn them quite a substantial amount of money. Last year the highest earning YouTuber, Ryan ToysReview made \$22 million in advertising revenue from his channel! Clearly it's important that you have plans in place for your YouTube account if it's producing an income for you.

YouTube are owned by Google, and Google have a similar system in place to Facebook when it comes to allowing you to plan in lifetime for what should happen to your various Google accounts on death. Through your settings in your Google account you may appoint an 'Inactive Account Manager'. This allows you to appoint a trusted person to be notified when your account has become inactive and give them access to it to manage. When doing this you also have the choice of when your account should be considered inactive and the plan triggered. Google will try to contact you multiple times before passing any details on to your Inactive Account Manager, so they can be sure that you've passed away.

If you haven't assigned an Inactive Account Manager then your immediate family or executors can work with Google to deal with the account. They may request that the account is permanently deleted or that certain data is obtained from the account. They can also request funds from a deceased user's account, as they may have died leaving funds in their AdSense account that were earned from advertising on YouTube videos.

If you need some advice on how you can manage your digital legacy or if you have a substantial digital estate and need some guidance on how you can deal with this in your Will we recommend contacting a Member of the Society of Will Writers.



If you have any questions about any of the content in this magazine, or for any other enquiries please contact
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Telephone: 01522 687 888

Email: info@willwriters.com

Web: www.willwriters.com

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WITHOUT
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Funeralcare

Personalise your funeral when purchasing a funeral plan

Personalisation is proving to be a growing priority for Brits when planning a final farewell; from the funeral music to arriving in style. Over the last three years, we've seen the number of requests for unique hearses increase by a fifth (21%)*. These range from a rainbow hearse to land rovers to a hearse showered with 100 red poppies.

It is apparent that we want to move away from traditional funerals, our biggest ever survey into death, dying and bereavement, conducted among 30,000 Brits, revealed that two fifths (41%) would like their funeral to be a celebration of life, rather than a sad occasion. A further one in five (20%) want mourners to wear bright colours at their funeral.**

.....

David Collingwood, our Director of Funerals, commented:

“We all lead unique lives and our final goodbye should definitely reflect that. Personalised touches don't need to be extravagant – it can be something as small as changing the funeral directing team's ties.”

.....

When you choose a Co-op funeral plan you get peace of mind that everything's paid for and arranged in advance. So whatever happens, you can be sure your loved ones are left with happy memories and a funeral that is personal to you.



“The trend really highlights the importance of planning ahead and having conversations with our friends and family about our wishes. Not only so that we take our final journey in the way we would’ve wanted, but also to alleviate some of the pain for our grieving families by removing those important decisions when the time comes.”

Why choose a Co-op Funeral Plan?

- ✓ It's simple and straightforward
- ✓ All our funeral plans are fully guaranteed meaning we cover all third party fees (such as cremation fees and the cost of a minister)†
- ✓ We have flexible payment options to suit you
- ✓ If you choose to pay in instalments, our unique Co-op Commitment means we'll cover any shortfall should you die before you've paid in full+

Contact the Society of Will Writers for further details

Tel: 01522 68 78 88

Email: info@willwriters.com

*According to Co-op Funeralcare's own business data from 2015-2017

**Co-op's biggest ever survey into death dying and bereavement was conducted by YouGov from 7th May to 25th June 2018 among over 30,000 UK adults. Further detail on the study can be found [here](#).

+ The Co-op Commitment applies if you are paying in instalments over 2-25 years and 1 year has passed since the plan start date, instalments must be paid up to date and your funeral must be arranged and carried out by one of our Funeral Directors.