

FOCUS

SWW

“THE SUCCESSION LAW EMAG”

IN THIS ISSUE:

THE IMPORTANCE OF PROFESSIONAL WILL STORAGE

CONFERENCE HIGHLIGHTS

WHAT IT MEANS TO BE AN SWW MEMBER

AND MORE...



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A LETTER FROM THE EDITOR

Ruby Nott

Dear Reader,

Welcome to the latest edition of Focus SWW! We are pleased to say that it has been an incredibly busy Winter so far here at the society and we are looking forward to the rest of 2022!

I mentioned that this season has been a particularly busy for us, that is partially down to the fact that our 25th Annual Conference took place at the start of October. Being our largest attended yet, it has been an incredible success and it was lovely to see so many familiar faces networking and having a good time. The speakers were really well recieved and the theme of this years event meant that everything came together nicely. If you'd like to read more about our 25th annual Conference then make sure to check out our Conference Insight E-Mag for more Conference content. We would like to thank everyone that attended, exhibited and spoke at the event for your continuous support, we are incredibly grateful, it will be a really hard year to top!

As 2022 begins to draw to a close, we would remind everyone in this changeable economy that now more than ever, writing a will is the best way to keep your estate safe once you've passed away. Getting your estate plan in order is one of the most important things you will ever do, and it will make it that much easier for your family and friends when the time comes. We hope that making your estate plan will be your priority this Winter.

If you have any questions or queries about the content of this issue please feel free to contact our office by emailing us at info@willwriters.com or phoning us at 01522 687 888 and we would be more than happy to assist.

Thank you for reading and I hope you enjoy this season's Focus SWW! I look forward to writing to you in the next issue!

R. Nott

Ruby Nott BA (Hons)
Graphic Design and Marketing
The Society of Will Writers and Estate Planning Practitioners

Contact us:
01522 687 888
info@willwriters.com
www.willwriters.com

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To find out more information, or to see our media pack and rate card, please contact either info@willwriters.com or call 01522 687 888

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



SWW Annual Charity Food Drive



Christmas and the holiday season are a time where we often spend quality time with our family and friends, eating tasty meals and giving gifts. This can be a very different time of year for people less fortunate than ourselves and we always want to make sure that they are in our thoughts.

This has been a hard year for most of us with the cost of living sky rocketing, and with energy bills going through the roof most of us are scrimping and saving where we can. This has affected some people more than others so this year more than ever we have those who are struggling on our minds.

That is why, every Christmas for the last 16 years, The Society of Will Writers has supported the Nomad Trust in Lincoln City Centre which is the only direct access night shelter service in Lincolnshire. Donations were started many years ago by Brian McMillan, giving sweet treats at Christmas time; this has grown year by year adding more to the donations until it turned into an annual food drive. This year Ruby and Natalie had the pleasure of taking the food down to the lovely team at Nomad. To help Nomad through the Christmas period we have included fresh meat and fruit, tea, coffee and other essentials to help ensure that they can have a plentiful Christmas.

We hope this tradition continues for many Christmases to come!



The Society of Will Writers wishes everyone at The Nomad Trust the very best this Christmas, and thanks you deeply for all you do for the people you help and support.

For more information about The Nomad Trust, please visit their website here: <https://www.lincsymca.co.uk/accommodation/night-shelter/>



The Importance of Professional Will Storage

Wills are rather interesting documents because they're the kind that you realistically can only have one of, foreign wills aside. A lot of documents these days we are used to having certified copies that can be provided as evidence of the document's authority, but Wills are special in this way in that it is the original document that must be produced for probate (apart from in some extenuating circumstances discussed later).

So, if you can only have one original Will, then how do you make sure you keep it safe for when you pass and your family or friends need to find it? You may think you can store it at home, maybe in your

But what are the risks really?

Well, here are a list of risks you could face when storing your Will yourself:

- Destruction by fire
- Destruction by flooding
- Malicious damage
- Loss/theft of the Will
- Accidental damage

What actually happens if my Will is destroyed or lost? If your Will is last known to be in your possession, but since your death nobody can find it, there is a presumption that you have destroyed your Will with

the copy Will is proved.

The situation becomes more complex if no copy of the signed will is available. An in-depth discussion on this process is beyond the scope of this particular article however, so advice should be sought from a suitably qualified estate planner or probate practitioner if required.

What benefits does professional Will storage provide?

A professional Will storage company often offers more than just the physical housing of your Will. Many provide services that not only protect your Will,

requirements, produce scanned copies and keep digital records any time it is withdrawn or deposited to storage, as well as provide ID cards for those who are authorised to access the Will. The NWA also register all Wills entering their storage with The National Will Register making it easier for your family to locate your Will after your death.

For more information on what the NWA do please visit their website here.

Painting a picture
Hopefully we have managed to illustrate to you the importance of professional Will storage and some of



cupboard or folder that you keep all other important documents. While you are absolutely within your right to do so, you ought to be aware of the risks as the Will would be vulnerable to damage or destruction by flooding or fire, loss and even theft.

So, why is protecting the Will important? Your Last Will and Testament is as it says on the proverbial tin, the very last wishes you get to express in this world making it an extremely important document to those you leave behind. If your Will can't be located after your death then your estate may end up being distributed totally differently to how you wanted.

Can I store it with my other important documents at home?

You absolutely can do that, but it isn't always the recommended means of protecting your Will. It is important to make sure that your Will is kept safe,

the intention to revoke it. This presumption can be rebutted, but with great effort. This obviously isn't ideal as your estate may end up not passing to your beneficiaries how you wished, or great stress may be placed on your family who are faced with the process of seeking permission to prove a copy of your Will.

A copy of a Will can't automatically be admitted to probate, even if it is an exact 1-2-1 match as a scanned copy of the original signed document. A 'wet-ink' signature is required for your Will to be valid. If your Will is lost or accidentally destroyed, your executors can apply to prove the copy of your Will instead and submit that to the Probate Registrar along with affidavit evidence giving detail of the circumstances of the loss or destruction, what efforts have been made to locate the missing Will, and what evidence there is to disprove the presumption that the Will was revoked by the testator. It must also include details of anyone who will be prejudiced if

but services that make it easy for your executor to retrieve your Will while protecting your interests. For example, by only releasing the Will upon receipt of a copy of your death certificate and only once the executor proves their identity.

So let us assess the risks of home storage and how professional storage handles these problems:

Fire Prevention
Flood Prevention
Restricted access, only released to you or authorised persons
Secured building
Safely filed away for when either you or your executors require it
Some storage providers provide even further services. We are partnered with The National Will Archive (NWA) where they check the validity of your Will to make sure it complies with legal

the risks you may face if you were to store your Will at home.

Here at the Society of Will Writers, we receive many calls from the public who are hoping to locate the Will of their lost loved one, and we always hope that the Will is being properly stored so that we can help that family on the path to carrying out their loved one's wishes.

Ultimately it is up to you how you wish to store your Will and the degree of risk you're prepared to accept, so if you are curious to know more about storing your Will, please feel free to contact your Will Writer. To find a Will Writer in your local area why not search via our 'Find a Member' page here or give the SWW a call on 01522 687 888.



Park Homes, Houseboats, and other forms of Mobile Residence

A mobile home is a tricky area under succession law and this article is only designed to take quick glance into dispensing of a mobile home by the Will; being that they are markedly distinct from what we may deem as more traditional property of bricks and mortar affixed to land.

What do we mean by 'mobile' home? When referring to mobile homes, what we are expressing is residential assets that are capable of moving or being moved; better described as property that can be moved from a plot of land without causing damage to the structure as set out in *Caddick and another v Whitsand Bay Holiday Park Ltd [2015] UKUT 63 (LC)*.

So, considering this, how do we distinguish a mobile residence from a mere chattel under Section 55(1)(x) of the Administration of Estates Act 1925 and have it deemed as a home?

How do 'mobile' homes qualify as a dwelling-house/residence?

This is where we will want to look just outside the remit of HMRC's IHT guidance and instead at their Capital Gains Tax guidance seen in HMRC Manual CG64325:

"Where a caravan has become so affixed to the land as to become part of it, it will have ceased to be a chattel and so any gain will not be exempt (... from CGT). However, in these circumstances it may be that the caravan would be regarded as a dwelling-house and as such private residence relief may be available."

Looking at this example they refer to caravans, but

the principle of becoming reasonably affixed to the land but one where it would be possible under the *Caddick Case* mentioned earlier for them to be disconnected and moved without the causing of damage to the structure.

What does this mean?

It means that a mobile chattel being used to live in is deemed as a dwelling-house/residence where it is reasonably affixed to a portion of land; being able to benefit from telephone, electrical and water mains etc, but is equally capable of disconnecting from said portion of land and relocating without damage.

Now, the practical questions:
Do they qualify for RNRB?

As we have established, moveable property falls into the category of being a chattel by its nature as a moveable asset. So surely it can't be deemed as a Qualifying Residential Interest under HMRC's guidance for RNRB?

In fact, it actually can qualify for tax relief, it needs to be deemed as a dwelling house as we have previously established, though HMRC's IHT Manual does provide specific guidance to applying RNRB to a "dwelling-house" as seen here:

Whilst the definition of 'dwelling-house' clearly includes a building of the fixed bricks-and-mortar type of property, where an asset, such as a static caravan or a houseboat, has demonstrably been used as an individual's residence you can accept

it as being a dwelling-house for the purposes of the residence nil-rate band. Each case will depend on its facts. <https://www.gov.uk/hmrc-internal-manuals/inheritance-tax-manual/ihtm46030> So, while we can see that RNRB is available for a lot of dwelling properties where there is a Qualifying Residential Interest, it does not act as a blanket cover for all variations of mobile residence. If one were to live out of a camper van that regularly travelled, failing the requirements for it to be deemed as a dwelling-house, it would likely not qualify as a residence despite it being used effectively as a mobile home.

Can I gift my Mobile Home or place it in a Trust for my partner/spouse?

This is where the law surrounding mobile homes can become quite complex, and we are unable to break down the finer details surrounding how the different pieces of legislation may interact with one another in this article alone; our focus will primarily be in the context of the Mobile Homes Act 1983 and 2013.

A key distinction you may recognise is that a mobile home is by its nature, not an interest in land but instead is an interest in a chattel/fixture upon that land and thus is not gifted or placed into trust as you normally might. However, these chattels/fixtures can still be owned similarly to that of an interest in land, such as Joint Tenants or Tenants in Common and are to be treated as such regarding severance.

There are already laws in place that allow for the

protection of someone else's interest in occupation of the property, an example of this is seen in Sections 3 and 3(B) of the Mobile Homes Act 1983 which allows for the surviving partner or spouse to have a right to reside in the property after the owner's death, or any right to occupy the property being granted under the terms of a Will or intestacy of the deceased owner. Please note that there is the possibility that an agreement between the owner of the land and the testator may preclude such a transfer of rights to use the land to enjoy the chattel.

So, how do we make a gift or trust of the mobile home?

Have it be deemed as a Dwelling-House. Check the agreement between the land owner and the testator, and see if there is the ability for the survivor to have a right to occupy. Understand if the interest in the mobile home is either Joint Tenancy or Tenants in Common (Joint ownership over chattels, not land) Provide provision for how this gift is to be distributed as one might, but separate it out as a specific gift which is not to be distributed in accordance with the testator's other chattels. We understand that this niche area of Will Writing is complex, however if you are a member of The Society of Will Writers, you are welcome to get in touch with us here at the Technical Team if you need assistance with a case containing a 'mobile home'.

WHAT IT MEANS TO BE A MEMBER OF THE SWW

This year we're on a mission to raise more awareness of The Society of Will Writers (SWW) and our Members, and a question we're often asked is "What exactly does it mean to be a Member of the SWW?" Good question, we say! Allow us to explain.

The SWW has been protecting and serving the interests of the public for over 28 years now, and with near on 1,800 Members the SWW continues to grow, covering even more parts of the UK and beyond. Thanks also to the greater adoption of technology, now more so than ever the public can rest assured that almost wherever they turn, a Member of the SWW will be there to help.

It's a common misconception that you must be a regulated individual or firm, for example a solicitor, to provide Will writing services. However, writing Wills isn't what's called a 'reserved activity', so whilst many who are regulated do provide such services, they don't have to be, and you don't have to choose someone who is. It's worth remembering though that without regulation, those who offer these services don't have to hold any qualifications, have any knowledge on the subject, or even be involved in the process to do so. That's where the SWW and our Members are different.

When the SWW was founded, we introduced a self-regulatory framework to a profession that was still forming at the time. Whilst we're not a regulator, it means that a set of standards are placed on any individual who applies to join our membership, all in the name of protecting the public and the profession. All Members must abide by our Code of Practice, hold a minimum of £2 million of Professional Indemnity Insurance, as well as meet regular training requirements, known as Continuous Professional Development (CPD).

Meeting these requirements permits our Members to carry compliance certificates and ID cards, as well as display our badges, such as the 'Safe to do business with' mark. We do have Members who are regulated by other bodies; however, they must still meet our requirements on top of any statutory requirements they're subject to.



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When engaging with the unregulated sector you might not be

afforded the same protections as the regulated sector if something goes wrong. This is part of the reason for our existence, with our founders identifying a real gap in access to redress for consumers, before taking it upon themselves to implement redress mechanisms to combat this from the outset. We're pleased to say that complaints against SWW Members are few and far in between, although we do appreciate from time-to-time relationships can break down making reaching a resolution difficult. If a client is ever unable to resolve a complaint with the Member direct, they can bring this to us where our complaints procedure is designed to work with both parties to find a fair outcome. Complaints handling is overseen by the SWW Professional Standards Board (PSB) for absolute impartiality.

Another initiative introduced by the SWW is our Public Indemnity Fund (PIF) which is paid into by every Full Member (MSWW^A) when they join. For many years now the PIF, also known as The Society of Will Writers Guarantee, ensures that in the event a Member is unable to complete an outstanding contract for their client, we can appoint another to take over so that they aren't left without documents or services they've already paid for. We don't have to use the PIF often, which is a testament to the robust contingency planning our Members implement for themselves to ensure their clients are always provided for. However, knowing the PIF is there provides that peace of mind you look for when dealing with something as personal as your Will and its importance is not to be underestimated.

To summarise, being an SWW Member promotes knowledge, competency, and security for the good of the public and the profession. By choosing an SWW Member you get to work with someone who is an expert because Will writing is what they've trained for and continue to develop their knowledge on to be able to do properly. You should always look for the SWW logo before choosing your Will writer, and if ever in doubt of someone's credentials, be sure to contact us immediately and we will gladly advise. Remember, all SWW Members must carry their photo ID card with them and present it to you upon request.

If you've not yet written your Will, need to update an existing Will or require the services of a Member of the SWW for another reason, you can search for one using our Find a Member page, or call the office on 01522 687 888 and we will put you in touch with a Member nearby.

If you're not yet a Member of the SWW, click here to request a copy of our free Information Pack and find out how you too can help better the profession. This year we're on a mission to raise more awareness



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From the Desk of the Director

SWW Conference 2022

Whilst chatting with some members at the SWW Conference this year it was requested that I bring back a series of blogs once penned by the late Brian McMillan titled From the Desk of the DG. DG of course refers to the title Director General, a title passed to me in 2020, although not one which I use. In truth, it never really felt like one which suited me, and more so out of respect, it felt far more appropriate to retire its use anyway. So instead, I'm pleased to welcome you to my first instalment of From the Desk of the Director (see what I did there) and it's my aim through these blogs to give you a more personally written insight into the day-to-day of running the SWW, as well as wider Society updates and goings on, and of course relevant things happening within the profession too.

To kick the series off, I'd like to devote this first instalment to the success that was the 2022 SWW Conference. With this year's being the 25th running it was set to be a very special event already, and whilst I can't speak for any of them before my time here, I can say with absolute certainty it's been the best SWW Conference out of the 7 I have been present for. Every year we strive to improve things over the last, whether it be the speakers, exhibitors, entertainment or even the venue itself and this year's ended up being an amalgamation of some of the very best that not only the SWW had to offer, but also the wider legal sector.

I truly enjoy our conference, it's been my privilege to open it for the last couple of years now and even though I'm usually a bag of nerves on the day, it's great to get up there and recap the year behind and map out the year ahead for the SWW. I try to do the rounds at regional groups to do the same, but it's the end of the "conference year" as we call it that's really when we announce the plans for the year ahead. It's not about me though, and really it's the other speakers I get to introduce which make both days worthwhile attending, including both the breakfast slots. This year's event was themed around the topics of capacity and vulnerability and each of the speakers brought their own expertise, advice, and knowledge on the subjects to really make the talks feel cohesive. I can't thank all the speakers across both days enough for their efforts this year, and I know from speaking with members and looking over the feedback that what each speaker had to offer has been very well received. You can read a little more about some of the speakers in our speaker feature series, found under the conference category in the news section.

To the exhibitors, I also extend my gratitude. It's not without the support from both those who come along in person and those working behind the scenes that we'd be able to run the event on the scale that we do. I know

there's a lot that goes into organising a stand, including supplying materials and content, and I appreciate at times we ask a lot of you so thank you for working with us. I know the members and other delegates who come really look forward to meeting with you, whether you're revisiting or exhibiting for the first time, and I trust you each found attending beneficial. If you'd like to know more about this year's exhibitors, you can read all about them and explore their products and services on our dedicated conference page.

Whilst speaking with members over the course of the event the feedback was already overwhelmingly positive and looking over the forms we've received since there's more of the same. I'm very grateful to each and every one of you who bought a ticket, thank you for attending and I truly hope you enjoyed it. We organise the conference for the benefit of SWW members and other legal professionals, and to have so many of you join us over the course of the 2 days makes all the hard work and planning worthwhile. It's our best opportunity to catch up with you all, and I know many of you look forward to seeing us and other members every year too. This year was our highest-ever attendance and it'll take some doing to beat next year, so I'd like to ask you to make sure you do all you can to encourage your colleagues to attend in future too!

My final thanks have to go to the teams at both the SWW head office and the Hilton. There's an unbelievable amount of work which goes on behind the scenes and organising the conference may well be the most stressful thing we do over the course of the year. I joked a couple of times whilst we were there about not really having anything to do with its organisation, and perhaps I don't give myself enough credit, but in all honesty, it's because largely the rest of the team here and there make it work. There would honestly be no conference without them all pulling together as they do and I'm very proud of everyone for what they manage to achieve year after year.

So, what next then? 2023 is looming and believe me when I say we're already planning next year's event for which we'll confirm dates and additional details shortly. We're pouring over the feedback to make sure the 26th is every bit as good as the 25th, and to those of you who bought tickets this year, we'll have a little surprise for you before the year is out as well!

That's it for now, although I could go on as I've got plenty else to write about including some upcoming projects and recent events and meetings, so I'll be back soon with another instalment rather than rambling on endlessly here.

Until next time, thank you for reading.

CONFERENCE 2022 HIGHLIGHTS



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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



Make plans for your future

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.