



Holographic Wills

This week, our specialist [Wills](#) Solicitors took part in the Law Society's Solicitor Chat, in which they discussed holographic wills and how to avoid the pitfalls and validation problems often associated with them.

What is a Holographic Will?

A Holographic Will is a handwritten alternative to a Solicitor drafted Will. It is prepared by the testator and the entire document must be written in their own handwriting.

Do Holographic Wills Need to be Witnessed or Notarised?

All Wills must be witnessed, but there is no requirement for a Will to be notarised. In order to be valid, a Will must be executed (signed and witnessed) in accordance with the provisions of Section 9 of the Wills Act 1837.

You need two witnesses, who must be over 18. They must not benefit from your Will, or be married to, or the civil partner of, anyone who will benefit. They do not need to read the Will, nor know about its contents, but they should know what they are witnessing.

Currently, in England & Wales, signing can be witnessed both in person and remotely (e.g. by video conference). If the strict formalities of Will execution are not complied with, then your Will may be held to be invalid.

Can a Holographic Will be Made Void if a Probate Court is Unable to Determine Whether the Will was Signed by the Testator? What Would be the Time, Cost and Tax Implications?

If the Probate Court cannot determine whether a Will was signed by the testator, they may declare the Will invalid. They are likely to require affidavit evidence in order to establish whether the Will was in fact signed by the testator.

If the Will is declared invalid, the law will not allow it to be followed. This means that a previous Will may end up applying or where if there is no previous Will, the estate will be dealt with in accordance with the intestacy rules.

The cost and time involved in resolving will disputes can be substantial. If the intestacy rules dictate who inherits, the inheritance tax consequences are predetermined. The exact tax implications depend on the deceased's estate in question.

What Steps Can You Take if You Believe a Loved One's Will is Fraudulent, or They Have Been Coerced?

If you have reason to believe any type of fraud or coercion has taken place involving a Will, we recommend that you seek legal advice as soon as possible. It may even be necessary to involve the police.

Unfortunately, claims of this nature are often very difficult to prove and it is therefore important to seek legal advice, so that you can be advised of the best way forward taking into account all of the circumstances.

If it is proved that a will is fraudulent or the testator has been coerced, then the Will is likely to be held invalid. It may also involve prosecution.

What Added Value Can a Solicitor Provide When Creating a Will to Help Demonstrate a Testator Was Of Sound Mind When Written?

The capacity required to make a Will is known as testamentary capacity. If you do not have the testamentary capacity (i.e. sound mind) required to make your Will, it will not be valid.

A Will can be challenged on the grounds that the testator did not have the required mental capacity. Solicitors have the necessary experience to be able to advise on this and limit the chances of a claim being successful or your Will being declared invalid.

A solicitor will ensure you understand what making a will means and its effects, the extent of your assets and whether there is anyone that could make a moral claim on your estate. Where capacity is in doubt, a solicitor will follow the 'Golden Rule'.

Preparing a Well-drafted Will is Not a Simple Process, Especially When You Consider the Number of Clauses Needed to Explain the Powers and Responsibilities of Your Trustees and Executor. Mistakes Can Easily Be Made. What are the Benefits of Having Regulated Support when Drafting a Will Compared to An Unregulated Service?

The Will writing industry (whether online or not) is unregulated in England & Wales. This means that anyone can set up a business offering to prepare your Will and this results in the quality of Will services varying greatly.

An unregulated service is more likely to produce a poorly drafted Will, which could end up being held invalid and can also result in gifts failing, disputes and court applications being required to clarify your intentions. There will then be no legal recourse.

There is no real substitution for obtaining legal advice and having a professionally prepared Will. Whilst there is a cost associated with this, a professional will ensure your Will is clear, valid and accurately reflects your wishes.

If you have any questions or concerns regarding your or a family member's holographic will, please get in touch with one of our specialist [will solicitors](#) today by emailing online.enquiries@la-law.com