

# Mitra's Monday Aide-Mémoire

Welcome to my Monday Aide-Mémoire ...

## Locating a Will

Losing a loved one or someone you cared for is not easy. Before you know it, you are thrown into informing friends and family of the death, obtaining a death certificate and making funeral arrangements. There then comes a time when you or someone will question: "What happens to the estate?". This is not an unreasonable question given that someone is expected to collect in the assets of the estate and distribute them.

### Where do you start?

The most obvious starting point is to find out if the Deceased left a Will and if they did, where is it? However, this is not as straight forward as it may initially seem.

A Will is a private document and many people do not like talking about them during their lifetime: sometimes it is because they find it morbid or sometimes it is to avoid friction within the family. *In such a case, how would one find out if there is a Will in existence?*

Here are a few practical pointers/sources to explore:

- **Go through the Deceased's papers at home** – there may be a designated folder or a drawer in which important paperwork are kept, such as birth certificates, marriage certificates, passports, cherished photographs and letters, etc. If there is a Will in existence, there is a possibility that a copy would be stored there.
- **Speak to the Deceased's close family and/or friends** – although not a popular topic of conversation, very often, people feel more comfortable speaking to an "outsider" about a Will they have made without going into details as to their wishes. You will be surprised how helpful neighbours (who may have also witnessed the Will!) may be.
- **Speak to the Deceased's GP or social worker**, if appropriate/possible. It is not unusual for some people to seek guidance from other professionals regarding making a Will. These professionals may be in a position to confirm if the Deceased intended making a Will and may even be able to point you in the right direction.
- **Contact the family's solicitors** – if the Deceased used a firm of solicitors for all their legal matters, such as the purchase or sale of their property, there is a good chance that a Will was made with that firm.
- **Contact local solicitors** – if the Deceased preferred to stay within close proximity of their local area and driving/transport was an issue for them, if they made a Will, it is highly likely that they instructed a local firm of solicitors and left the original Will with them for safe keeping.



- **Contact the Deceased's banks** – there was a trend when banks offered Will-making services to their clients and stored the original Will.
- **Carry out a Will search** – although not a legal obligation, many solicitors now recommend that a Will is registered with The National Will Register. Note: even if you come across a very old Will, it may be worth carrying out a search in the event a new Will was made, particularly in situations where there has been a major change of circumstances. There is a fee payable to carry out this search.

**Note for relatives/friends who wish to find out if they have been left something in a Will:**

- If you are a beneficiary, you will be contacted by the executor(s) of the estate informing you that you will receive something from the Deceased's estate but if in doubt or if you wish to look at the Will, you can carry out a search with the Probate Registry. Once a Grant of Probate is extracted by the executor(s), the Will becomes a public document and you can request a copy of the Will for a small fee to find out if you are a beneficiary and what you are likely to receive.

**Note for attorneys/deputies managing a vulnerable person's ("P") property and affairs:**

- Managing P's finances includes being aware of P's testamentary wishes and to avoid frustrating these wishes, if possible, when making financial decisions on P's behalf. Although a private document, attorneys/deputies are entitled to see a copy of the Will. If not already in possession of P's Will, attorneys and deputies should consider the sources set out above to try and locate the Will.

**Food for thought:**

- If you have reason to believe that there is a Will in existence but cannot find it despite exhausting all avenues, you may wish to consider seeking legal advice and taking out a missing will insurance policy.

**If you have any questions or wish to discuss the above, feel free to contact me on 0121 746 3352.**

**Mitra Mann, Head of Contentious Probate**

