

# White Paper

## Exploring the benefits of The National Will Register

Examining the advantage of  
Will Registration, Certainty Will Searches and  
membership with The National Will Register

# Exploring the benefits of The National Will Register

Why should firms register Wills with The National Will Register, and what are the benefits for them and their clients of conducting Certainty Will Searches? For answers, The National Will Register hosted a panel discussion to gain some informed and nuanced insights from three highly respected solicitors\* in Wills and probate. This White Paper supplies an overview of that conversation ahead of the first Certainty Expert Roundtable on Wednesday 10th November 2021 at 12.00pm.

## Will Registration

What's the value of registering a firm's Wills with The National Will Register? In our panel's view, the first benefit is that registration gives clients peace of mind. Once they have a clear understanding of the process – i.e. that the register doesn't itself hold their Will, but rather records the Will's existence and location – clients derive comfort from knowing their Will stands the best possible chance of being located after their death. Registration supplies an extra step of client care which adds reassurance and value to the firm's Will writing service.

Likewise, registration gives peace of mind to named executors. In particular, experience suggests that they frequently can't recall where, when, or with which firm a Will was written. Registration helps locate such Wills so executors can be confident they're proving the correct Will.

Meanwhile, when firms merge, amalgamate or acquire others that have closed down, they often acquire old Will Banks. This can be complicated because the new firm has no relationship with the clients whose Wills it now holds. Also, clients and their executors often don't know that a firm is no longer in existence. In these circumstances, registration can make a real difference to ensuring the right Will is found in a timely way when an estate needs to be administered.

## The value of a Certainty Will Search

The panel's second discussion was about what's gained from conducting a Certainty Will Search. This searches for registered Wills on The National Will Register, providing a positive or negative match generally within 48 hours. Thereafter, if required, a REACH search can be conducted nationally in geographically targeted areas for unregistered Wills, usually for 28 days, which has been extended to 56 days for Covid-19.

Aside from a moral imperative to ensure that the last wishes of testators are honoured; more pragmatically, searches can save time and money, bring in new business, and importantly, limit the risks to executors. Whether lay or professional, they're held financially responsible if the distribution of an estate is incorrect. A Certainty Will Search is recognised as evidence that executors have done everything reasonably possible to locate the last will of the deceased, plus a Will Search Report is issued at the end of a search that can be kept on file.

Nor is being an executor straightforward. Imagine, for instance, that your firm is told that a client, whose Will requests that a partner in your firm act as an executor, has died; only for a second firm to contact you saying they have a later Will, and a third firm to come forward saying they have the final Will. This is not a hypothetical case, but an actual scenario experienced by one of our panellists. It shows the importance of conducting a search with The National Will Register to identify the last Will. Our panellists noted that their firms always undertake a Certainty Will Search where a partner is an executor.

It's also really valuable to conduct a Certainty Will Search in cases of an assumed intestacy. Another panel member described an actual case where an intestacy was assumed, locks changed, and a property and its contents sold before heir hunters found a registered Will after conducting a Certainty Will Search and which was located at the panel member's firm that completely changed the way the estate was distributed. This illustrates why it's highly recommended that a search is conducted before any administrative tasks begin.

Certainty Will Searches also bring the benefit of helping firms update their records: for instance noting that the Will held by the firm is not the latest; or that a client has died. Such knowledge is good for efficient administration and for demonstrating your firm's professionalism, which in turn can result in the firm gaining new instructions and new clients.

## In what circumstances should you conduct a Certainty Will Search?

As noted, our panellists thought it was highly advisable to conduct a Certainty Will Search in cases of intestacy, when partners are executors, and before embarking on estate administration, and additionally when an individual lacks testamentary capacity.

All our panellists' firms have specialist elderly and vulnerable client units. This reflects our ageing population and the growing number of individuals who are incapacitated. In these circumstances firms quite often have little or no history on an individual. With Court of Protection matters, a Certainty Will Search can determine if there's a Will and can supply information about the person's family and friends, who might be concerned about their welfare, if not their finances.

A search also gives the Deputy intelligence on the assets of a Patient and how to manage them. For instance a property may be left to a niece or nephew. Knowing this might stop the property being sold precipitately and ensure that the individual's wishes are followed as stated in their Will. It can also help Deputies to learn – possibly over a series of updated Wills – what an individual wanted in their life and wanted done after their death. Such knowledge can help to identify potential fraud.

Court of Protection Deputies and attorneys can also conduct a Certainty Will Search in life that can later be hugely helpful for moving matters on once the Patient dies. At this point Deputyships and attorneys' rights and responsibilities end. Without a search you don't know if there's a Will, or who should be told the individual has died. Knowing the named executors to contact can move the matter forward without undue delays.

It's also possible and useful to conduct a Certainty Will Search in different geographical areas to cover off the possibility that an individual has made a Will in a different region from where they last lived. It's also the case that firms can't be too careful. One panel member spoke of conducting a routine Certainty Will Search, only to find two Wills held by two separate firms. Both these firms were adamant about the relationship they had with the testator and that theirs was the most recent Will. The Certainty Will Search was able to resolve this.

# Benefits of membership with The National Will Register

The National Will Register. It was noted that there's strength in numbers, and the more solicitors who join, the larger the number of Wills that are registered and the more likely that Wills will be found sooner. This gives members the best chance of administering estates quickly and correctly.

In addition, members have exclusive access to TOUCH, a Will management system and marketing tool. Through their TOUCH account, members can conduct searches, register Wills and have a record of all of activity to refer back to. It puts them in control and saves time. They can also take advantage of marketing opportunities provided by Certainty.

Registration can also be offered as an opt-in or opt-out client benefit. Once people are reassured there are no data privacy or data protection issues, nearly all our panellist's clients see the benefits of registration, unless a Will is very new at the time of death. So membership can enrich client satisfaction with a firm's performance.

Finally, our panellists noted that they've all experienced some degree of fraud. Membership gives them ready access to an extra level of certainty, reducing the risk of costly errors and contributing to lowering the firm's risk profile.

For more information and insights on the advantages of membership and Certainty Will Searches, please join us at the first Certainty Expert Roundtable on Wednesday 10th November at 12.00pm.

**You can register for the free event here.**

*\*The National Will Register is indebted to our panel participants who gave us their time and shared their considerable experience. They were Kirstie Brownbill, Partner at Tollers LLP; Shelley Collingbourne, Senior Associate at Sydney Mitchell; and Leah Hanson, Partner at Wilkin Chapman LLP. They spoke with Astrid Bowser, Director at The National Will Register.*



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