

Is your will out of date?

Apparently one third of all wills are now out of date. As a solicitor specialising in Wills and Probate law this does not surprise me. As part of Emmersons Solicitors Fact Finding, one of the questions we ask is, "Do you have a previous will and if so where is it?" Many clients can remember making a will but don't know when or can't recall where it is.

If you have made a will it is very important to keep a copy of it in a safe place. I would suggest with your birth certificate, marriage certificate or passport. At Emmersons Solicitors we store our clients wills free of charge. We always ask clients to inform their family as to the whereabouts of their original will, that is, in our office.

If a new will is being prepared then it is important to take steps to locate your old will so that it can be destroyed. How would you feel if your family relied upon your old will and weren't aware of your new one? Remember that hippy phase you went through when you decided to leave a lot of your estate to a commune in Goa?

A will may be out of date because;

- You have left money to a friend who has either died or who you no longer see.
- You have had children. - You now need to appoint a guardian to look after them in the event that you and their other parent die whilst the children are still minors. Who will be the guardian? I would suggest that if you appoint a guardian as a trustee, to hold monies for your children, then you should also appoint another trustee who is not the partner of that guardian. The trustees would then make financial decisions together in respect of monies held for the benefit of your children.

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- Your Executors have now died or you have lost touch with them. - If you are making a new will in later life then it may not be a good idea to appoint executors in your own age group. They may pre-decease you. It can be a very onerous task being an executor. Therefore anyone you appoint must be capable of dealing with a lot of administration and paperwork. You can appoint your solicitor as an executor. Whilst there is a fee for this service it will usually be a lot less than your bank would charge. It would also make matters easier for your family and friends.
- You have separated from your spouse or civil partner. - If you are still married or in a civil partnership then you should re-arrange the legal ownership of any home that you own with your partner. This is a simple matter for a solicitor to undertake. It means that instead of you both owning all of the property, you are deemed to own half of it for inheritance purposes. You should then make a will setting out to whom your share of the property would pass in the event of your death.

Can you locate your will now?

