A Will requires the signature of two or more Witnesses

Guide to choosing and being a Witness

Call us free on 0800 999 7430 or visit www.goldsmithwilliams.co.uk/wills
What is a Witness?

In England and Wales, a Will requires the signature of a minimum of two Witnesses. A Witness is the person who verifies the Testator’s (the person who is making the Will) signature on the Will and then, signs and prints their name on the Will too.

By signing your name as a Witness, you are verifying you have either, watched the Testator sign their Will or you are signing your name as evidence that the Testator has acknowledged to you that the signature on the Will is theirs.

What does a Witness have to do?

**A Witness needs to either:**

(i) Watch the Testator sign and date the Will and then sign and print your name in the presence of the Testator.

or

(ii) If the Testator has already signed the Will, they must first confirm to you and the other Witness that the signature is theirs. Both Witnesses must be present at the same time when the Testator confirms this. Once this is confirmed both you and the other Witness sign and print your name on the Will.

It is not essential but preferable, to avoid any confusion later, that you are all present when the Will is being Witnessed.

It is preferable that the Testator dates the Will so it is clear, if they have made more than one Will, which one is to be regarded as their last, and therefore, most up-to-date.

Who can I choose as my Witnesses?

Anyone can be a Witness permitting, at the time of Witnessing, they can see, read, write, are mentally capable and are not drunk or drugged.

**Having said that, we advise not to choose the following people as Witnesses:**

- A very old person as they may die before you and then would not be able to confirm they had Witnessed the Will correctly, should there be any problems in the future
- A Beneficiary under the Will. Any gifts left to them would fail if they Witnessed the Will
- A spouse or partner of a Beneficiary as, again, any gifts left to the Beneficiary would fail
It is therefore advisable to choose an independent person(s) to act as Witnesses. If you have appointed your Solicitor or another professional person as an Executor, they can also be a Witness.

**Does the Witness need to read the Will?**

No. The role of the Witness is to confirm the Will is signed by, or has the signature of, the Testator; they do not need to know the contents of the Will.

However, if there are any amendments in the main body of the Will itself these will need to be initialled by the Testator and the Witnesses. Should this be relevant to you, the amended sections must be initialled in the same way as the Will has to be signed; i.e. in each other’s presence. The same legal formalities must be followed otherwise the validity of the Will may be affected.

**Should I ask what’s contained in the Will?**

No. Usually Wills prepared by Solicitors or professionals have a separate page at the back of the Will where the Testator and Witnesses sign in order to keep the contents private.

**Once I’ve signed it, do I have to do anything else?**

As a Witness, you may be asked to provide sworn statements about the circumstances in which the Will was signed if:

- There are any problems with the Will affecting the Grant of Probate being issued
- There are any queries regarding the signature(s) that appear on the Will
- There are any accusations regarding the mental capacity of the Testator
- There are any accusations regarding undue influence being placed on the Testator before the Will was signed

**Should I remain in touch with my Witnesses?**

Ideally yes, just in case there is a problem with your Will and your Witness is needed to provide a sworn statement.

However, we appreciate sometimes this is not possible. People move around a lot more nowadays and, even with the help of texting, emails and Facebook, it is easy to lose touch. Sadly, you might not even be aware if your Witness(es) has passed away, or whether they still have mental capacity. By not being aware of this, the validity of your Will could, potentially, be affected.

If you have lost touch with your Witness(es), it is advisable for you to review and update your Will.
If you have any questions about anything in this leaflet, please call our Wills team on:

0800 999 7430