

Storage Case Studies



Secure storage – why it matters



There can be a range of complications to a lost Will.



If the Will cannot be located on your death, the law presumes that you have destroyed it and have therefore died intestate.



If there is no Will, your last wishes will not be carried out and your beneficiaries might not inherit what you intended for them.



Our secure storage solutions can offer you peace of mind and certainty that your last wishes will be carried out.



If your Will is lost or destroyed, we can lodge a signed electronic copy of your Will with the Probate Registry and affirm that the original was not revoked and should be admitted to Probate.

Did you know that if your original Will can't be found after your death, the law presumes you have destroyed it and therefore you have died intestate?

Secure storage is one of the most important things you should know about when making your Will.

These case studies show the importance of securely storing your Will and the impacts not storing them can have.

Case Study 1 - Mrs. Jones

Mrs. Jones passed away after a sudden illness and her original Will could not be found when her family searched for it. She had been separated from her husband for many years but had not got around to finalizing her divorce.

The family knew she had made a Will, and she had given a copy of the signed Will to one of her daughters for safekeeping. This confirmed that she wanted her children to inherit her estate, not her husband.

The family were unaware of the presumption in law that states that if an original signed Will cannot be found amongst the deceased's papers on death, they must be presumed to have destroyed it, and it will be assumed that they did not want the Will to take effect.

As the original signed Will could not be located within Mrs. Jones' papers or anywhere else on her death, the presumption applied and she was treated as having died intestate.

Her Will did not take effect, and her children did not inherit her estate as intended.

This was frustrating and upsetting for her children and caused them extra difficulty in their relationship with their father, who would not agree to vary the assets to them that passed to him under intestacy.

If the original signed Will had been stored and could have been located on her death, Mrs. Jones' wishes would have taken effect.

Case Study 2 - Mrs. Smith

Mrs Smith was in a nursing home for the last year of her life. Every time anyone visited her, she told them all that her original Will was in the box under the coffee table at home.

Mrs Smith passed away, and when her family tried to locate the original, signed Will according to what she had told them, it could not be found.

It wasn't in a box under the coffee table. It wasn't in any box in the property, and it could not be located anywhere else despite an extensive search (that in itself took months).

As Mrs Smith had told so many people that she had a Will, there was evidence provided by many witnesses that she did have a last Will and she intended this to stand.

A copy of the signed Will could be located, and an application was lodged with the Probate Registry to ask them to admit the signed copy Will to Probate.

The witnesses Mrs Smith confirmed the whereabouts of her last Will to provided affidavits to the Probate Registry in line with their belief that she wanted the Will to stand and considered it valid (to rebut the presumption in law that she must have destroyed it).

The Probate Registry gave notice to those who would have been due to inherit via intestacy as opposed to under her last Will, and invited them to make an application to the Court to challenge this if they wished. In this case, the beneficiaries didn't make a claim, and the Probate Registry eventually admitted the copy of the signed Will to Probate.

This process took nearly 2 years to complete following Mrs Smith's death and caused untold uncertainty for those she wished to benefit under her Will. It also increased the cost to administer the estate significantly.

If the original Will had been stored and could have been located on her death, it would not have been necessary to incur extra time and cost obtaining affidavits from witnesses and applying to the Probate Registry in the hope that they would admit the copy of the signed Will.

Notice would not have had to be given to the different classes of beneficiary under the Will and intestacy, risking litigation and causing ill feeling between various family members.

Case Study 3 - Mr Williams

Mr Williams changed his Will a number of times over the years. In particular he changed the amounts he was giving to others via legacies in his will as his relationships changed with those individuals from time to time.

On his death a search of his papers resulted in some confusion when a number of Wills could be found, all containing different provisions. Some beneficiaries then became aware of the fact that at various points they were due to receive more money than they received under the last Will, causing serious upset.

If the Wills Mr Smith made had been stored, there would have been no reason that the beneficiaries would have been aware of the contents of any previous Wills.

They would not then have had the upset of being made aware that at various times throughout Mr Williams' life he had changed his Will and treated them differently throughout.

These case studies show how important it is that your clients are securely storing their Wills in a place where they can be easily found.

Safe storage of legal documents is one of the most important services you can offer.

It is peace of mind for your clients that their last wishes will be carried out.

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