

What happens if a will is not properly witnessed?



To be valid, a Will must meet certain standard criteria which are set out in section 9 of the Wills Act 1837. If these criteria are not satisfied then the Will may fail resulting, in assets being distributed in accordance with an earlier Will (or, if no previous Will exists, under intestacy rules).

One of the essential criteria is that the Will is signed by the testator (the person making the Will) and this signature is made or acknowledged in the presence of two witnesses, who should then both sign the Will in the presence of the testator.

While you can make anyone a witness, it is often sensible to ask someone independent to witness your Will, as a Will cannot make a gift to either of the two witnesses (the Will is valid but gifts to witnesses will fail). This means that family members may not be the most appropriate witnesses.

If a Will is not properly witnessed it is likely to be invalid and fail. For this reason it is worth making sure your Will is prepared and executed properly, to ensure your wishes can be carried out. If you are concerned about a Will and wish to dispute whether it is a valid Will, one approach is to investigate whether it has been properly witnessed by taking statements from the witnesses named in the disputed Will.

How we can help

If you think a will which is being used to distribute someone's estate is invalid, contact our [inheritance disputes team](#) to discuss the options available to you.



[Phil Youdan](#)

Partner