



Ministry  
of Justice

# Storage and retention of original will documents

December 2023

CP 984





Ministry  
of Justice

## **Storage and retention of original will documents**

Presented to Parliament

by the Lord Chancellor and Secretary of State for Justice

by Command of His Majesty

December 2023



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# About this consultation

- To:** This Consultation Paper is aimed at anyone with an interest in the issue of the storage and retention of wills and is likely to be of particular interest to the legal profession.
- Duration:** From 15/12/23 to 23/02/24
- Enquiries (including requests for the paper in an alternative format) to:** Will Storage consultation  
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Email: [civil\\_justice\\_poli@justice.gov.uk](mailto:civil_justice_poli@justice.gov.uk)
- How to respond:** Please send your response by 23 February 2024 to:  
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Postpoint 5.25  
Ministry of Justice  
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London SW1H 9AJ  
Email: [civil\\_justice\\_poli@justice.gov.uk](mailto:civil_justice_poli@justice.gov.uk)
- Response paper:** A response to this consultation exercise is due to be published by 31 May 2024 at:  
<https://consult.justice.gov.uk/>



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# Ministerial Foreword

Wills are very important and personal documents. They set out someone's wishes for how their property and assets are to be distributed after their death and are their opportunity to ensure beloved family members and friends are provided for and that charities they support receive donations.

Wills are also very important in legal terms; they are the basis for the granting of legal authority (probate) to executors to administer the deceased person's estate.

The legality of a will is something that needs to be established. In most cases this is done by the courts in granting probate, however, in a small number of cases wills will be subject to challenge. For example, by an allegation that a fraud was committed, or undue influence exerted on the person making the will. That means the court will need to check the will and hold it in case challenges are made.

At the moment there are no limits to how long courts hold these original will documents and they are held long past the period when a challenge might be brought. HMCTS has original wills dating back to 1858. There are heavy costs involved in storing wills on this permanent basis and that cost rises each year as more will documents are added.

It is my responsibility to challenge the current system on behalf of taxpayers and to look at ways of preserving original wills in a more economic and efficient manner that still allows challenges to be properly determined. With this in mind, I am keen to seek views on whether original wills should only be held for a fixed period of time and at a certain point move to holding a digital only version.

HMCTS has since 2021 created digital copies of new wills deposited with it, and it would be possible to digitise other stored wills held on a rolling programme. This would enable us to continue to keep wills permanently and available for inspection, but as a digital copy and therefore without the heavy costs that are currently incurred.

This consultation proposes reforms in furtherance of that approach and seeks views on whether those reforms should be pursued and the safeguards that should be built in.

I welcome hearing those views in taking this work forward.

**Mike Freer MP**

Parliamentary Under-Secretary of State for Justice

# Executive summary

1. This document sets out the Government's proposals to introduce a system for preserving will documents in digital form, as opposed to the current system of keeping all the original paper documents submitted in applications for probate (the legal authority for administering a deceased person's estate), and seeks views on the related question of whether the right to inspect wills that are stored should be changed.
2. On the form of stored wills, the current system involves significant storage and preservation costs which increase each year and are difficult to justify when digital preservation offers an equally efficient, much more economic and environmentally beneficial alternative.
3. The consultation paper seeks views on the principle of moving to digital-only preservation of will documents and, in that event, whether there should still be any retention period for the original paper will documents.
4. The document also invites views on whether for famous and historic figures that principle should not apply, and their original paper will documents should be preserved in perpetuity.
5. The consultation also asks consultees how the legislation should be amended if the decision is to move to digital-only preservation of wills, with the two options being a change made via the Electronic Communications Act 2000 (using secondary legislation) or pursuing primary legislative reform in a Bill before Parliament.
6. The Government welcomes views from court users, the legal and archivist professions, all other probate practitioners and historians, as well as the judiciary and anyone else with an interest in this topic.

# Introduction

7. This paper sets out for consultation the proposals to amend legislation so that only digitised versions of original will documents of most wills are preserved in perpetuity and the paper versions for a limited amount of time only and seeks views on that principle and the period for which paper wills should be stored. The reforms would amend the current costly practice of holding all original paper wills forever.
8. The consultation also asks more general questions about the current law on the right to inspect wills.
9. The consultation is aimed at, in particular, the legal profession in England and Wales, and especially trusts, estates and probate practitioners. It will also be of wider public interest given the subject matter as the vast majority of people will at some stage be involved with a will, whether making one or having an interest in one.
10. The consultation runs for 10 weeks and will close on 23 February 2024.
11. A Welsh language consultation paper will be available at [www.gov.uk/official-documents](http://www.gov.uk/official-documents).
12. An Impact Assessment has not been prepared for this consultation paper as the proposals are unlikely to lead to additional costs or savings for businesses, charities or the voluntary sector, but will bring savings for the public sector (HM Courts and Tribunals Service). The costs and potential savings depend on which of the reform options are pursued, as outlined in the options for reform section of this paper (pages 13–16).
13. Copies of the consultation paper are being sent to:
  - The Law Society
  - Bar Council
  - Chartered Institute of Legal Executives
  - STEP – the Society of Trust and Estate Practitioners
  - Council of Licensed Conveyancers
  - Master of the Faculties
  - Association of Certified Chartered Accountants
  - Institute of Chartered Accountants in England and Wales
  - Institute of Chartered Accountants in Scotland
  - Chancery Bar Association

Family Law Bar Association

Resolution

The Institute of Professional Will Writers

The Society of Will Writers

BEST Foundation

The Institute of Legacy Management

Archives and Records Association

British Records Association

British Association for Local History

Historical Association

Information and Records Management Society

The National Archives

Royal Historical Society

14. However, this list is not meant to be exhaustive or exclusive and responses are welcomed from anyone with an interest in or views on the subject covered by this paper.

## Current legal framework

15. The current legislation governing the depositing and preservation of original wills is set out in the Senior Courts Act 1981 (the 1981 Act). Section 124 states:

“All original wills and other documents which are under the control of the High Court in the Principal Registry or in any district probate registry shall be deposited and preserved in such places as may be provided for in directions given in accordance with Part 1 of Schedule 2 to the Constitutional Reform Act 2005; and any wills or other documents so deposited shall, subject to the control of the High Court and to probate rules, be open to inspection.”
16. The general right of access to will documents is qualified by the Non-Contentious Probate Rules, Rule 58 providing:

“An original will or other document referred to in section 124 of the Act shall not be open to inspection if, in the opinion of a registrar, such inspection would be undesirable or otherwise inappropriate.”
17. The legislation (Section 125 of the 1981 Act) also provides that copies of wills may be obtained from HM Courts and Tribunals Service (HMCTS) on payment of a fee.
18. The rationale for public inspection of wills can be briefly summarised as follows:
  - a. To provide those with an interest in the deceased person’s estate a means to identify whether they are a beneficiary, or for creditors to protect their rights.
  - b. To provide an opportunity for inspection of the composition of the will and the signature of the testator, which may become evidence or grounds for a challenge to the validity of a will – for example due to an allegation of fraud or undue influence.
  - c. To provide the basis for any challenge that the will used as proof for probate (the legal authority to administer an estate) is not valid as not being the most recent will made by the testator, or incomplete (for example not including a codicil, a legal document that amends a will).
  - d. To provide the basis for beneficiaries and interested parties to hold executors and trustees to account for the administration of the estate or a related trust, and to help ensure a testator’s intentions are implemented.
19. The origins for the current legal framework date back to reforms in the 19<sup>th</sup> Century, resulting in the Court of Probate Act 1857. That legislation transferred responsibility for granting probate from the ecclesiastical courts to a new Court of Probate and thereby created the modern system of a Principal Registry and District Probate Registries. This legislation provided for a system of depositing wills and for their inspection.

20. As such, HMCTS holds wills dating back to 1858 when the Principal Registry was established. Wills prior to 1858 are held, if at all, by The National Archives or other institutions (advice on accessing earlier wills can be found on The National Archives' website at: <https://www.nationalarchives.gov.uk/help-with-your-research/research-guides/wills-or-administrations-before-1858/>).
21. Wills are purely private documents until such time as they are 'proved' by the process of probate being granted. Thereafter they are available for inspection to those registering and paying the necessary fee to HMCTS.
22. As set out at paragraph 14, the right of inspection is qualified and may be disapplied. This is known as an application to 'seal' a will and requires a judge or probate registrar to agree that 'such inspection would be undesirable or inappropriate'. An example would be where a will set out a confidential personal address which would compromise personal safety (for example someone on a witness protection scheme). At present there is no formal guidance for how this discretion should be exercised.

## Questions

Question 1: Should the current law providing for the inspection of wills be preserved?

Question 2: Are there any reforms you would suggest to the current law enabling wills to be inspected?

# The case for reform

## Reforming the principle of retaining original paper wills

23. There are a number of reasons for proposing reform in this area. The primary factor is the very high cost of preserving the store of original paper wills and the supporting documents supplied in probate applications. This is estimated to be in the region of £4.5 million per annum and costs will continue to rise as the number of documents stored and running costs increase with each year that passes. These services are outsourced, which adds an additional complexity and potential financial burden in that in the event of a change in suppliers there would be significant costs in physically moving very large amounts of physical material between sites under controlled conditions.
24. Given the cost and the physical demands the storage of this mass of paper documents presents, the immediate question arises as to whether this material needs to be preserved in paper form indefinitely, or whether a digitised copy of a will would suffice and is of equivalence in legal terms. The capacity to make and retain digital copies is already available. Since 2021, digital copies of wills and supporting documents in all new applications, whether online or not, have been made. That has proven entirely satisfactory for users; engendering doubt about the necessity of keeping the originals in new applications.
25. In the event there is a move to storing digital copies alone for new probate applications, the costs of storage would not escalate as quickly, however as wills stored currently date as far back as 1858, and so will remain the vast majority for some time, the costs would remain high. However, since 2021, for all older wills, when a request for copy has been received, a digital version has been made to fulfil that request. That too has proven satisfactory. Therefore, a rolling programme could also be introduced to digitise all older wills, reducing the costs markedly below the current levels.
26. There is also the wider context of the HMCTS reform programme for modernisation of court services by involving greater use of digital processes for applications and court records. The Government considers that an indiscriminate system, built on permanent storage of paper records, is inconsistent with the efficiency and economic needs of the objectives of the justice system and this reform programme.
27. In addition, the Government considers that a digital copy of the will has the equivalent capacity as the paper will to establish the intention of the testator. As a consequence of the huge advances that technology has made over recent years digital copies of

original documents can be extremely detailed and all relevant marks on the original will be retained in the digital version. For example, signatures and margin notes and corrections show up as easily on the digital will. All parties and courts will therefore be equally able to rely on digital copies of wills to challenge the validity of that will or another as they would be if relying on the paper will.

28. However, whilst the equivalence of paper and digital wills for the purposes of probate appears clear to the Government, and therefore there is in principle no need to retain paper copies, it recognises that there may also be, firstly, an emotional relationship that the family of the testator will have with the original documents and, for want of a better term, secondly, an emotional relationship that society retains for probate matters.
29. As to the first aspect, that may, for example, arise as a consequence of the views of a testator on very personal relationships to explain their distributions and, coming after their death, being their last words to those who survive them. As to the second, that is perhaps best reflected in the fact that paper wills have been kept continuously since 1858, which is over 160 years, despite the fact that the capacity to challenge a will, for which want of witnesses and other evidence, would likely have expired after a tiny fraction of that time.
30. However, whilst that may be the case, the Government also considers that the emotional value of such original documents to relatives and to society is likely to diminish over time and, importantly, the question of retaining a digital version of wills in perpetuity need not be considered in isolation. That approach could exist side by side with a policy of retaining the original paper documents for a limited period of time. If so, that raises the question of how long that time period should be.
31. There will no doubt be a variety of perspectives on that duration that are relevant, and this consultation deals with that issue more fully below, however, as an example the Government considers that a significant one is to consider the original paper will as a part of a formal court record. The appropriate period of time could therefore be drawn from other policies and practices with respect to other court records. The durations that court records are retained for are set out more fully below but, as an example, in trusts and equity cases more generally court records are retained for 6 years.
32. Whilst not a direct comparator, as many of those records will not be in the original but in digital form only and will not contain the same significant sentiment of wills and probate matters generally, the Government believes it offers a reflection of the shortest periods that original paper wills could be retained, though there will be a need to set the actual period longer by reference to other factors.
33. Therefore, the Government considers that there is a strong case for legislating to amend the requirement to retain paper-copies alone to allow digital copies instead but



would nonetheless introduce a policy to retain those paper wills for a number of years. However, we invite views as to concerns either about the principle or the details of the possible approaches for achieving that policy.

### Questions

Question 3: Are there any reasons why the High Court should store original paper will documents on a permanent basis, as opposed to just retaining a digitised copy of that material?

Question 4: Do you agree that after a certain time original paper documents (from 1858 onwards) may be destroyed (other than for famous individuals)? Are there any alternatives, involving the public or private sector, you can suggest to their being destroyed?

## Method of reforming the legislation

34. If the principle of reform (in relation to permanent storage of original will documents) were to be accepted, the Government considers that it could be achieved by secondary legislation under the Electronic Communications Act 2000 (the ECA 2000). The ECA 2000 was intended, in part, to ensure a simple solution to amend legislation, including primary legislation, to allow legal requirements with respect to documents to be fulfilled by digital versions. Alternatively, it could be achieved by amending the 1981 Act by primary legislation.
35. The Government's provisional view is that the most appropriate approach, being both effective and timely, is by using the powers in the ECA 2000. That Act gives the appropriate Minister the power to modify legislation for the purpose of 'authorising or facilitating the use of electronic communications or electronic storage' (sub-section 8(1)).
36. There must be grounds for these powers to be used, with the reform's purpose matching the criteria in the ECA 2000. The Government believes this proposal for preservation of digital will documents would match the criteria of 'keeping, maintenance or preservation ...of any account, record, notice, instrument or other document' (sub-section 8(2)(e)).
37. The legislation also requires that the relevant Minister may only use these powers where they consider that electronic communications or storage would be 'no less satisfactory' than the alternative (in this case preserving paper documents) (sub-section 8(3)).

38. The Government considers that the provisions of the ECA 2000 are therefore available for use towards this policy and proposes exercising those powers by a narrow amendment limited to ensuring the requirement to have wills available for inspection could be met with a digital copy.
39. An alternative approach would be to amend the 1981 Act by primary legislation. Although this would be harder and may take longer (in terms of the difficulties of securing a suitable legislative vehicle and Parliamentary time) it would enable other matters that are tied to the digital records to be included where they cannot be included under the ECA 2000. One matter could be any need to more broadly reform the law on the right to inspect wills more generally, as set out above.
40. In addition, the primary legislative route would also provide more opportunity for Parliamentary scrutiny and debate than if secondary legislation is used.

### **Questions**

Question 5: Do you agree that there is equivalence between paper and digital copies of wills so that the ECA 2000 can be used?

Question 6: Are there any other matters directly related to the retention of digital or paper wills that are not covered by the proposed exercise of the powers in the ECA 2000 that you consider are necessary?

Question 7: If the Government pursues preserving permanently only a digital copy of a will document, should it seek to reform the primary legislation by introducing a Bill or do so under the ECA 2000?

## Options for reform

41. The Government considers that there are certain issues on the nature of the reform that need to be considered. This section sets those out and the options available for them.

### Retention period for original will documents

42. The question which immediately arises, if the principle is accepted that the courts retain original will documents in a digitised form), is whether and how long the original paper will document should be generally retained?

43. As explained above, whilst the Government considers there is equivalence between paper wills and digital copies, it recognises that the public may be concerned that the system transitions immediately from paper wills being retained to the retention of only digital versions. The Government therefore considers that whilst the law should be changed to permit retention of digital versions in place of original paper wills, there should also be a policy to retain those paper wills, and potentially other documents as set out below, for a certain period.

44. In identifying that period, the Government has considered various comparators in both court records and other places. It is of course important to record that they are not direct comparators, as many of those records will be retained in digital form only, but could nonetheless help to identify what should be a baseline duration for a policy of holding the original paper will before questions of sentiment are addressed.

45. Retention periods for other court documents are as summarised in the table below. The periods vary according to business need, and there is no definitive retention period across all types of court case/record.

Type of case/document	Retention period
Probate application forms	2 years
Inheritance – Family Provision claims	3 years
Trusts and Equity cases (High Court, Chancery)	6 years
Chancery cases	7 years
Bankruptcy cases	20 years
Decree Nisi and Decree Absolute (official divorce records)	100 years

46. Another comparator is that Government departments keep documents relating to policy and decision making for 20 years, and then – in accordance with the Public Records Act 1958 – transfer them to The National Archives, or to an approved place of deposit, those records which have been selected for permanent preservation, albeit those records will also only be in digital form.
47. A further example is from the Ministry's current retention policy for applications for compensation arising from miscarriages of justice. Whilst the context differs, and again those documents will only be digital, they are retained for 25 years.
48. On the basis of that table and the other examples, the Government considers that a reasonable duration would be somewhere in the order of 10 to 12 years, bearing in mind that digital copies of wills would remain in the record permanently and beyond the longest period referred to above, being the 100 years for Decrees on divorce.
49. Lastly, there is the need to reflect the general significance to such original documents to individuals and to society as a whole.
50. Taking those examples into account, and the sentimental nature of probate and wills and the fact that there will be a permanent digital record, the Government suggests 25 years as a suitable period.

### Questions

Question 8: If the Government moves to digital only copies of original will documents, what do you think the retention period for the original paper wills should be? Please give reasons and state what you believe the minimum retention period should be and whether you consider the Government's suggestion of 25 years to be reasonable.

## Preserving the wills of famous people

51. The National Archives preserves the wills of several famous people who died before 1858 when the new Probate Registry system was established, with examples being William Shakespeare and Jane Austen.<sup>1</sup> Establishing a general system of digitising original will documents would not preclude exceptions being made where there is a national interest in preserving an original will document for posterity and future historical or academic enquiry.
52. The Government is open to wider views on the criteria which should be adopted on identifying wills which should be preserved permanently. This would also apply to wills

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<sup>1</sup> <https://www.nationalarchives.gov.uk/help-with-your-research/research-guides/famous-wills-1552-1854/>

held already (for example, the will of Charles Darwin), and be determined prior to a programme of digitising and then destroying original paper will documents. It is possible that a further, more limited public consultation, will be held on the criteria/guidance for designating famous wills in due course.

### Questions:

Question 9: Do you agree with the principle that wills of famous people should be preserved in the original paper form for historic interest?

Question 10: Do you have any initial suggestions on the criteria which should be adopted for identifying famous/historic figures whose original paper will document should be preserved permanently?

## Retention Period for other documents supplied for probate in support of wills

53. Another issue is the range of documents currently retained by Probate Registries. The following extract from the Record Retention and Disposition Schedule for Probate Registries<sup>2</sup> illustrates the scale and range of documents currently stored on a permanent basis. It sets out a wide range of supporting documentation which may be supplied with probate applications, although in terms of legislative requirements for public inspection, only wills and codicils<sup>3</sup> need to be retained. Therefore, the case for reform of storage of wills differs from that for supporting documents and the approach to each could be different.

### Unique records held by the Probate Registries

Description of records

- a) Wills and grants of representation from 1858
- b) Abandoned cases
- c) Forms of Renunciation
- d) Summons
- e) Citations
- f) Probate refused
- g) Subpoenas

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<sup>2</sup> <https://www.gov.uk/government/publications/record-retention-and-disposition-schedules>

<sup>3</sup> A codicil is a document making an addition or amendment to a will and requires the same formalities as making a will (e.g., signing and witnessing).

**Retention policy:** Keep the following permanently:

- Wills and grants of representation (including video recordings of witnessed signatures)
- Statement of Truths
- Codicils
- Renunciations (revocations)
- Probate engrossment
- Powers of attorney (or power of consent)
- Reason for delay
- Alteration of grant
- All birth, death and marriage court cases (divorce, adoption, etc)
- Deed poll
- Ancillary affidavits and witness statements
- Inventory and account of estates
- Order of domicile
- Forged wills and related paperwork
- Notarial or official copies of foreign wills
- Official copies of entrusting documents
- Notarial or official copies of certificates of inheritance

Keep all other documents for 50 years and then destroy.

54. The Government would be interested in views on whether a special case can be made for preserving any of the supporting documents – for example, whether notarial copies of foreign wills should be preserved.

### Questions

Question 11: Do you agree that the Probate Registries should only permanently retain wills and codicils from the documents submitted in support of a probate application? Please explain, if setting out the case for retention of any other documents.

# Questionnaire

We would welcome responses to the following questions set out in this consultation paper.

Question 1: Should the current law providing for the inspection of wills be preserved?

Question 2: Are there any reforms you would suggest to the current law enabling wills to be inspected?

Question 3: Are there any reasons why the High Court should store original paper will documents on a permanent basis, as opposed to just retaining a digitised copy of that material?

Question 4: Do you agree that after a certain time original paper documents (from 1858 onwards) may be destroyed (other than for famous individuals)? Are there any alternatives, involving the public or private sector, you can suggest to their being destroyed?

Question 5: Do you agree that there is equivalence between paper and digital copies of wills so that the ECA 2000 can be used?

Question 6: Are there any other matters directly related to the retention of digital or paper wills that are not covered by the proposed exercise of the powers in the ECA 2000 that you consider are necessary?

Question 7: If the Government pursues preserving permanently only a digital copy of a will document, should it seek to reform the primary legislation by introducing a Bill or do so under the ECA 2000?

Question 8: If the Government moves to digital only copies of original will documents, what do you think the retention period for the original paper wills should be? Please give reasons and state what you believe the minimum retention period should be and whether you consider the Government's suggestion of 25 years to be reasonable.

Question 9: Do you agree with the principle that wills of famous people should be preserved in the original paper form for historic interest?

Question 10: Do you have any initial suggestions on the criteria which should be adopted for identifying famous/historic figures whose original paper will document should be preserved permanently?

Question 11: Do you agree that the Probate Registries should only permanently retain wills and codicils from the documents submitted in support of a probate application? Please explain, if setting out the case for retention of any other documents.

Question 12: Do you agree that we have correctly identified the range and extent of the equalities impacts under each of these proposals set out in this consultation? Please give reasons and supply evidence of further equalities impacts as appropriate.

**Thank you for participating in this consultation exercise.**



# About you

Please use this section to tell us about yourself

<b>Full name</b>	
<b>Job title</b> or capacity in which you are responding to this consultation exercise (e.g., member of the public etc.)	
<b>Date</b>	
<b>Company name/organisation</b> (if applicable):	
<b>Address</b>	
<b>Postcode</b>	
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (Please tick box)
Address to which the acknowledgement should be sent, if different from above	

**If you are a representative of a group**, please tell us the name of the group and give a summary of the people or organisations that you represent.

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## Contact details/How to respond

Please send your response by 23 February 2024 to:

Will Storage consultation  
Ministry of Justice  
Civil Justice and Law Division,  
Postpoint 5.25  
102 Petty France  
London SW1H 9AJ

**Email:** [civil\\_justice\\_poli@justice.gov.uk](mailto:civil_justice_poli@justice.gov.uk)

### Complaints or comments

If you have any complaints or comments about the consultation process, you should contact the Ministry of Justice at the above address.

### Extra copies

Further paper copies of this consultation can be obtained from this address, and it is also available on-line at <https://consult.justice.gov.uk/>.

Alternative format versions of this publication can be requested from [civil\\_justice\\_poli@justice.gov.uk](mailto:civil_justice_poli@justice.gov.uk).

### Publication of response

A paper summarising the responses to this consultation will be published in Summer 2024. The response paper will be available on-line at <https://consult.justice.gov.uk/>.

### Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

## **Confidentiality**

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the General Data Protection Regulation (GDPR) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry.

The Ministry will process your personal data in accordance with the DPA and in most circumstances, this will mean that your personal data will not be disclosed to third parties.

# Equalities assessment and Welsh Language

## Equalities assessment

Under the Public Sector Equality Duty within the Equality Act 2010 MoJ Ministers and policy makers are required to consider the equalities impacts of policy proposals in relation to the following:

- (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (b) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it.

### **Direct discrimination**

The proposal to introduce digital only copies of original will documents is considered unlikely to be directly discriminatory and is not likely to treat people less favourably on account of a protected characteristic.

### **Indirect discrimination**

We consider that the introduction of digital only copies of original will documents is unlikely to be indirectly discriminatory as it is unlikely to result in a particular disadvantage for people with a protected characteristic when compared with people without the protected characteristic.

### **Discrimination arising from disability and duty to make reasonable adjustment**

We do not consider the introduction of digital only copies of original will documents would give rise to discrimination arising from disability or that further reasonable adjustments are required to be made to the existing will inspection service.

### **Harassment and victimisation**

We do not consider there to be a risk of harassment or victimisation because of these proposals.

### **Advancing equality of opportunity**

We do not consider these proposals impact on the duty to advance equality of opportunity by meeting the needs of claimants who share a particular characteristic, where those needs are different from the need of those who do not share that characteristic.

### **Fostering good relations**

We have considered the need to foster good relations between people who share certain protected characteristics and those who do not in relation to these proposals impact on that duty.

We would like to understand if there are further equalities issues that we have not yet considered.

### **Questions**

Question 12: Do you agree that we have correctly identified the range and extent of the equalities impacts under each of these proposals set out in this consultation? Please give reasons and supply evidence of further equalities impacts as appropriate.

### **Welsh Language Impact Test**

We have considered whether there are any linguistic consequences of the reforms in relation to services provided to the people of Wales but concluded there are none. This is because the reforms will result in no changes to the current system of inspection and obtaining copies of wills as this is done by creating a digital copy.

The probate application process can be made using the Welsh language.

# Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the Cabinet Office Consultation Principles 2018 that can be found here:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/691383/Consultation\\_Principles\\_\\_1\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691383/Consultation_Principles__1_.pdf)



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