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Ministry of Justice, UK Consultation on the Storage and Retention of Original Will Documents

The digital age has ushered in a wave of technological advancements that have transformed the way we handle information and documentation. We have been all embracing the trend towards digitisation, with many institutions considering the adoption of paperless processes. The UK Ministry of Justice, however, should exercise caution before embracing a policy of digitising and destroying original paper will/probate documents. While digital solutions offer efficiency and accessibility benefits, there are significant concerns related to security, preservation of evidence, and potential technical challenges that warrant a thorough examination of the implications before making such a consequential decision for both family historians wishing to access the information for research and the wider public.

The Society of Australian Genealogists is responding to the consultation on the storage and retention of original will documents given their relevance to members and Australian genealogists with a family background from the United Kingdom (UK).

Preservation

Digitisation introduces the risk of tampering, hacking, or unintentional alterations. Even with secure digital systems in place, the potential for malicious activities cannot be eliminated. Preserving the original paper documents ensures a tangible and unalterable record that can be stored. Access via the digitisation of the materials is not preservation. Access is not a preservation strategy.

Security

Digital systems are susceptible to cyber threats, data breaches, and technological failures. Adopting a policy of digitising and destroying original paper documents of this kind raises serious security concerns. Legal documents, particularly wills and probate records, contain sensitive and private information that must be safeguarded against unauthorised access. The threat of data breaches and cyberattacks poses a significant risk to the confidentiality and integrity of these documents.

Additionally, relying solely on digital storage creates a vulnerability to technical malfunctions, software bugs, or system errors that may result in data loss. In the legal context, any loss of critical information can have far-reaching consequences. Maintaining a physical copy as a backup ensures redundancy and acts as a fail-safe mechanism in the event of unforeseen technical issues.

The recent long-term security breach of the British Library is the example of a critical incident that is still yet to be fully resolved.

Accessibility and Technological Barriers

While digitisation offers the advantage of improved accessibility and ease of retrieval, it also introduces potential barriers for those who may not have access to, or be comfortable using, digital technology. Individuals from older generations, or those with limited technological literacy, may find it challenging to navigate digital systems and retrieve important legal documents. Implementing a policy that exclusively relies on digital records could inadvertently disadvantage certain segments of the population.

Long-Term Viability of Digital Formats

The rapid evolution of technology raises concerns about the long-term viability of digital formats. File formats and storage systems can become obsolete, and ensuring the compatibility and readability of digital records over extended periods presents a challenge. The UK Ministry of Justice must consider the sustainability of the chosen digital infrastructure to prevent the risk of losing access to critical legal documents due to technological advancements.

In conclusion, while the digitisation of legal documents offers undeniable benefits in terms of efficiency and accessibility, the UK Ministry of Justice should approach the adoption of a policy to digitise and destroy original paper will/probate documents with caution. Preservation, security concerns, accessibility issues, and the long-term viability of digital formats all underscore the importance of maintaining physical records alongside digital copies. Striking a balance between the advantages of modern technology and the necessity for preserving the integrity of legal documentation is crucial to uphold the principles of justice and ensure the protection of individuals' rights in the digital age.

Society members and friends are encouraged to respond to the open consultation for the Storage and retention of original will documents/ UK Ministry via email: civil_justice_poli@justice.gov.uk.

Ruth Graham
Chief Executive Officer
On behalf of the Board of Directors

About the SAG

The Society of Australian Genealogists is an education charity made up of a community of passionate family historians - all are welcome to join as members, enthusiastic amateurs alongside professional genealogists. In 2022, the Society celebrated 90 years of tracing families together and in 2024 will be developing a new strategic plan to take us into the coming decades. We support our members and the public with courses, events, special interest and research groups, operating Australia's largest dedicated family history library, research support, access to 60,000+ records within a manuscript and image collection, a specialist family history bookshop, and with fellowship across the Society. You can find out more at: www.sag.org.au.

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