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# Can you make a WhatsApp will?

Key legal requirements and future outlook.

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Making a will is one of the most important steps anyone can take to protect their estate. But with the rise of messaging apps, many ask: can you make a WhatsApp will? In England and Wales, the law governing valid wills remains rooted in the Wills Act 1837, long before smartphones came into existence. Below, we unpack the key legal requirements for making a will, how digital tools fit in, and whether a WhatsApp will might ever be recognised.

### What makes a will valid?

Under the Wills Act 1837, a valid will must satisfy four critical requirements:

#### Age and capacity

- The testator must be at least 18 years old.
- The testator must be of sound mind and mental capacity.

#### Written document

• The will must be in writing, and the testator must sign it (or, in certain circumstances, it can be signed by another person in the testator's presence).

## Witnessing formalities

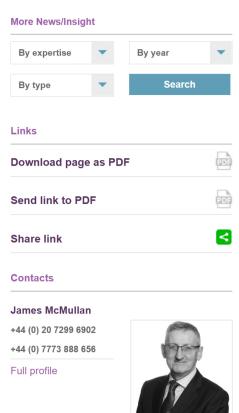
- The testator must sign the will in the presence of two witnesses or acknowledge their signature in the presence of two witnesses.
- Those two witnesses must sign the will in the testator's presence.

These key ingredients are impossible to replicate in a digital world, not least WhatsApp.

# Digital adaptations and remote witnessing

During the COVID-19 lockdown, emergency legislation allowed wills to be witnessed via video link—an important step toward modernising wills law. Yet this change still requires a written document signed on paper; the witnessing conducted remotely simply alleviates in-person constraints.

#### The Law Commission's electronic wills initiative



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Since 2017, the Law Commission has explored electronic wills, pausing its consultation between 2019–2022 and resuming it in October 2023. The goal is to design a framework that:

- · Allows fully digital will execution
- · Preserves safeguards against fraud
- Potentially introduces a new Wills Act for electronic wills

The consultation closed in December 2023, and as of today, no legislation has formally legalised pure WhatsApp will execution.

## Will WhatsApp wills ever be valid?

At present, there's no indication that a WhatsApp will—a chat message chain—could satisfy statutory requirements because of:

- Fragmentation: WhatsApp threads lack a single, immutable document.
- Deletion Settings: Chats can auto-delete, undermining document permanence.
- Authentication & Witnessing: No reliable built-in method to witness or authenticate signatures.

Until new electronic-wills legislation passes, traditional or hybrid (paper signed and video-witnessed) methods remain the only way to ensure validity.

For tailored advice on electronic wills, remote witnessing, or updating your estate planning in the digital age, contact James McMullan at RIAA Barker Gillette (UK) LLP. He can guide you through current requirements.

Note: This article is not legal advice; it provides information of general interest about current legal issues.