



Who wants to live forever?

October 2017

When we're forced to think about death we may find ourselves becoming a bit wobbly but it's not that often that the related laws and processes themselves are shaken up. However, things may be about to change.

In the UK, the Law Commission has issued a consultation to look at whether the laws surrounding wills need to be modernised to take into consideration changes in our society such as:

- Changing patterns of family life (more cohabiting couples and more people having second families)
- An ageing population and the rise of dementia
- An increasing reliance upon digital technology
- Medical developments in understanding disorders, diseases and conditions which can alter a person's mental capacity to make a will
- The fact that most people own sufficient property to make it important to control where that property passes after their death

After surveys evidencing that over 40% of the UK population die without making a Will, consideration is being given to introducing proposals to amend the current UK laws with a view to making it easier and more attractive to people to make a Will.

Electronic Wills

Although a variety of proposals are being considered, arguably one of the most interesting, is the idea of paving the way for the introduction of "electronic wills", raising the question of whether, in the future, technology could be used to allow individuals to make and sign their Wills online.

So many people put off making a Will. Would this be a system which could lead to a document which we could manage and update ourselves easily and cost effectively online? Or would it create a system ripe for abuse?

These proposals have caused some controversy with concerns being raised as to whether, if introduced, this would mean that a voice mail or a text could pass as an individual's last Will on death.

The consultation document states that it is felt that there are strong arguments that the ability to create a Will should apply, not only to traditional written documents, but also where individuals who intend to make a Will express their intentions in an electronic format,

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including in audio or audio-visual recordings noting that, *"A person who is seriously ill in hospital may have more immediate access to a tablet or smartphone than to a pen and paper, and may be more able to speak than to write."*

Will by Text?

It was recently reported that the Brisbane Supreme Court, Australia, accepted an unsent, draft text message found on an individual's phone after his death, leaving all of his estate to his brother and nephew, as a valid Will.

Within the text the deceased had given details of how to access his bank account and where he had hidden monies within his house, also noting what should happen with his ashes. Despite the deceased's wife arguing that the text was not a valid Will as it had never been sent, and as typically in Queensland a Will must be written and signed by two witnesses, never the less the Court ruled that the informal nature of the message did not prevent it from outlining his intentions and standing as a valid Will.

The Challenges

The Law Commission admits that implementing such changes in the UK does raise challenges which need to be considered. Would this increase incidents of family discord if potential beneficiaries decide to try to review their relative's communications for evidence that they had changed their mind? What about the issues of data protection which that could give rise to? Further, surely any changes would need to ensure that vulnerable adults are protected so they cannot be forced into making a Will, or altering their existing Wills, in this way by unscrupulous individuals?

Would such a system really be suitable for clients with complex assets or family circumstances? What about clients who may have tax considerations that they need to consider when making their Wills but which they may not necessarily be alert to?

The laws surrounding death, and the death business itself, have not exactly been known for innovation (biodegradable coffins, diamonds created from your ashes and your bodily remains being sent into space aside) however if we are willing to bank online, shop online and manage other aspects of our life online, perhaps digital planning is something to consider.

The Law Commission's proposals still need further review however technology is already helping people look at end-of-life planning in alternative ways and perhaps it is inevitable that as generations of digital natives grown older they will seek a digital solution for what happens on their death.

The Future is Now

Boston-based company Cake lets individual plan their end-of-life preferences, from their funeral to what happens to their Facebook page. All the information is stored, appropriately enough, in the cloud or shared with family or friends. The company's ethos is that end-of-life planning doesn't have to be complicated and confusing and that the plans which you make should be able to accessed and updated by you, anywhere, at any time, not just made once, popped in a drawer and forgotten about, as all too often happens.

Just thinking about putting their own funeral in place is too much for some people to even consider but how about going one step further.

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Think Pandora. Think bright blue aliens. Think one of the highest grossing films of all time.

That's right, some forward thinking individuals are now investing monies in companies which will, after your death, in effect, bring you back to life. In the form of a digital avatar.

Living a digital afterlife sounds, at the very least, peculiar, and perhaps to most disturbingly creepy, however with more and more of us leaving a digital footprint online it is incredible to think what could be created by what we leave behind.

A US Company, Eternime, will collect your thoughts, stories, pictures, memories – everything you have ever posted on social media – and uses them to create an intelligent avatar that looks like you.

This avatar will live forever and allow other people in the future to access your memories. Theoretically your digital representative could interact with your family, friends and descendants, long after you've left this mortal world, potentially, according to the company's founder, even being able to be an engaging conversational partner.

Uncomfortable to some but at last count **37,835 people** have already signed up for the service due to launch next year.

And if you don't feel that that is a step too far, then you could always use DeadSocial.org which allows you to schedule future social media messages to be published online after you've passed away. There is an ethical argument for these kind things but, that's for another article.

With many of us not having even given consideration to a more traditional Will, let alone discussed it with our families, if you're going to go this far, it might be best to have a quiet word with your family and friends to eliminate the element of surprise.

Love it or hate it, technology is infiltrating every aspect of our lives. And with technology comes change.

As Steve Jobs once said; *"No one wants to die. Even people who want to go to heaven don't want to die to get there. And yet death is the destination we all share. No one has ever escaped it. And that is as it should be, because death is very likely the single best invention of life. It is life's change agent. It clears out the old to make way for the new."*

It remains to be seen what the outcome of the Law Commission's consultation (which is running until 10 November) will be, and whether technology can provide us with answers on how to move forwards in a way which will make Will making more attractive, cost effective and easy for all, however with Guernsey's laws surrounding inheritance having altered so significantly over the last few years, and with the potential for UK laws to be persuasive on our own, it certainly is a brave new world...so watch this space!

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