

## Certainty, Statutory Notices and Landmark Asset Searches

### Certainty Will Search

Certainty UK is an organisation endorsed by the Law Society that enables Solicitors and members of the Society for Trusts and Estates Practitioners (STEP) to register the location of their clients' Wills.

Certainty UK also offer a search facility. This is helpful not only to check the existence or location of a Will, but also to ensure the estate is being administered under the last Will made. If an Executor distributes an estate under the wrong Will, or an Administrator distributes on the basis of intestacy when a Will does in fact exist, they are exposed to personal liability for claims by the beneficiaries who did not receive what they were entitled to. This is even if the action taken was entirely well-intended. A Certainty UK search can protect from such liability.

There are different Certainty searches: -

- **Register Search only** - estimated fee £40.00 plus VAT
- **Reach Search** - estimated fee £80.00 plus VAT.  
This will perform a geographically targeted search by contacting local firms to ascertain if they hold a Will.
- **Will Search Combined** - estimated at £100.00 plus VAT. This combines the Register search and the Reach search, with the addition of a Missing Will Notice on Certainty's noticeboard.
- **Will Search Protect** - estimated at £200.00 plus VAT. This undertakes: -
  - the Register Search
  - the Reach Search
  - the Missing Will Notice
  - the Statutory Notice in the London Gazette (see below)
  - a Search of the Probate Registry Grant Register and Will Depository Register
  - a quote for Missing Will Indemnity insurance

It is also possible to arrange a Landmark search (see below) through Certainty. The benefit of this is that you can bundle the Landmark and the Reach Search together at a combined cost of approximately £215 plus VAT.

The fee for any search will be taken from estate funds.

If the Partners in WBW Solicitors are Executors they will arrange for a Reach Search to be carried out. We advise other Executors to do the same. Please indicate at the end of the client engagement letter which, if any, search you would like us to undertake.

### Statutory Notices

An Executor has a lifelong responsibility for ensuring an estate has been properly administered. This includes checking that creditors of the estate have been identified and paid prior to distribution to the beneficiaries. Section 27 of the Trustee Act 1925 encourages Executors to advertise for creditors in the London Gazette and in a local newspaper. This gives creditors 2 months to notify Executors of any claim they have against the estate. Once the 2 month period has expired, the Executors can safely distribute the estate with reference only to the claims already made known to them. If these advertisements are not made, Executors can become personally liable for any debts which would have otherwise been uncovered had the Notice been placed.

The fee will be in the region of £200.00 and it will be taken from estate funds.

If the Partners in WBW Solicitors are Executors they will arrange a Statutory Notice. We advise other Executors to do the same. Please indicate at the end of the client engagement letter whether you would like us to arrange this for you.

### **'Financial Asset Search' (FAS search) for Lost and/or Forgotten Financial Assets**

It is the duty of an Executor to identify all assets. With an increasingly paperless society, tracing assets is becoming more difficult. Financial assets can also become lost if, for example, someone moves home and forgets to provide an institution with their new address or moves jobs on a regular basis and contributes to different occupational pension schemes. A financial asset search provider will contact a wide range of financial institutions to search for lost or forgotten assets, i.e. assets that have not been active in the previous 2 years. WBW have been using this type of search facility for many years and assets are regularly found.

Not only will this search help to ensure the beneficiaries receive everything they are entitled

to, it will allow you to show HMRC that you have undertaken all reasonable steps to investigate the assets of the estate.

When an estate is subject to inheritance tax, the tax return must be submitted to HMRC within 6 months of the date of death. If additional assets are found at a later date, a corrective account must be submitted to HMRC. Interest will always be charged on new assets disclosed in the corrective account, but if HMRC believe that insufficient effort was made to correctly identify assets in the initial tax return, penalties can be imposed against an Executor personally.

The fee will be in the region of £155.00 plus VAT and it will be taken from estate funds.

If the Partners in WBW Solicitors are Executors they will arrange for this search to be carried out. We advise other Executors to do the same. Please indicate at the end of the client engagement letter whether you would like us to arrange this for you. If you instruct us to commission the report, you will be taken as giving consent on behalf of the deceased to our sharing necessary personal information, so that the search can be prepared.