

Lawyers find creative ways to sign papers in wills rush

LAST WISHES

Tammy Mills

Witnessing wills through car windows and over back fences are among the creative ways lawyers are helping clients to get their affairs in order during the pandemic.

More people are wanting to create or change their wills or powers of attorney in response to the crisis, Melbourne lawyers say.

"We're grappling, at the moment, with a lot of clients who want to put wills and powers of attorney in place urgently because they're worried about the potential impacts of COVID-19," Arnold Bloch Leibler partner Christine Fleer said. In Victoria, at least two people have to witness and sign a will in the physical presence of the person making it.

Two witnesses are also needed to appoint someone with powers of attorney. One must be a lawyer, medical practitioner or other qualified witness and neither can be a relative. But the limits on reasons people can leave home, restrictions on the number of people you can be out with, and the need for older people to self-isolate have made signing and witnessing the crucial documents difficult.

"It can be a challenge for some people who are over 70 and are self-isolating and don't know their neighbours very well. It can be a great challenge for them," said Kathy Wilson, Law Institute of Victoria accredited specialist in wills and estates.

State Attorney-General Jill Hennessy has flagged changes to allow alternative ways for people to sign legal documents. But Ms Wilson said in the meantime "we have to think outside the square a bit". Ms Wilson, based in Deep-

dene in Melbourne's east, said she had met clients in their cars and witnessed documents through the car window.

Clients have been encouraged to get their neighbours to witness over the back fence, while Ms Wilson knows of a lawyer who witnessed documents for a client quarantined in hospital through a glass window into their room.

"It's a reminder to people that the virus does attack people of all ages and there is no point thinking it doesn't matter, it's never going to happen to me, I don't need a will or power of attorney," Ms Wilson said.

The Law Institute of Victoria has called on the state government to clarify that lawyers are an essential service and to amend legislation to allow signing of documents to occur over video-conferencing during the crisis.

"Wills take a lot of judgment from the practitioner because we need to assess whether the client has capacity and whether the client is influenced. A video call doesn't prevent you from doing that for our clients, who we know well," Ms Fleer said.

Ms Wilson supported the introduction of video witnessing, but only as a short-term and emergency measure, cautioning that it could be difficult to judge if a client was unduly influenced or pressured.

Ms Hennessy confirmed that the provision of legal services, including those related to wills and powers of attorney, was a necessary service.

"We are considering options to enable alternative methods to finalise legal documents that currently require execution in person," she said.