



The Society of Will Writers

SWW-PN-05-2016

Practice Note 3



Locum arrangements and closing your practice

This practice note from The Society of Will Writers (SWW) represents our view only. Our notes are what we consider good practice (guidance) and are not to be considered legal advice.

No member can rely on these notes from the SWW in the event of a complaint or an external investigation.

We have taken every care to ensure that these notes are accurate and up to date but The Society of Will Writers accept no responsibility or legal liability in relation to them. Therefore it is the responsibility of the member to ensure they adhere to good practice and relevant legislation when dealing with clients and when running their business. This also applies to the sale or closing of a business.

Definitions

SWW	the Society of Will Writers
CoP	Code of Practice
ToB	Terms of Business

1. Introduction

Whilst running your estate planning practice and trading under the banner of SWW membership you are required to trade in accordance with The Society of Will Writers [Code of Practice](#) and [10 membership principles](#). It is expected that you will continue to apply these principles until the point at which you sell or dissolve the business or in the instance that you become incapacitated and are no longer able to work. These practice notes will provide some guidance and support to help members to make decisions in the event of these circumstances arising.

2. Closing down your practice

If you no longer wish to run your business and practice as a member of The Society of Will Writers or as an Estate Planning Consultant then as a matter of good practice here are a few points for consideration.

Who do you need to tell?

Whether or not you have made the decision to close down your practice or whether the decision has been imposed upon you for financial reasons for example, there are a number of people that you will need to inform.

- Your clients
- Your staff
- The Society of Will Writers

The Society of Will Writers – our point of view

Long after members have resigned, retired and closed their practices, their clients or the executors for their clients estates (be that family or friends etc.) will call the Society of Will Writers for information. Calls we get can be motivated by the need to update documents, retrieve documents from store, or to purchase additional services. They may also wish to resolve any outstanding issues.

If you were no longer a member and thus not sending back your periodic audit documents we would no longer be able to update your records. It is therefore good practice to inform the Society of Will Writers about any of the following: (in accordance with S.2.14 of the CoP)

- Location of Wills (If you provided document storage)

On our records we store information as to where you store your documents. This is the information we rely on when we receive calls through our public helpline.

- Details of Will bank

If you are selling or gifting your Will bank to another person or organisation then The SWW should be informed as to the details of where documents will now be located.

- Date of business sale/closure

It is imperative that as a member of the SWW you inform us if you are retiring and resigning your membership. We can then create a note on your record with the date that your membership will cease and our notes will be up to date.

- What information should be provided to clients

To avoid any confusion and to prevent any complaints being raised to the SWW you should inform clients if you are no longer able to service future business and what their position is.

The Society of Will Writers have always taken the stance that charging clients for lifetime storage, specifically with the addition of free updates could cause potential problems.

If this is the case and you are closing your business then you should have arrangements in place for future updates with your clients. The Society of Will Writers are happy to arrange updates if necessary (please contact info@willwriters.com).

- Persons/organisations who you would like work to be referred to

Communication is key. If you are arranging or have arranged for an individual or organisation to take over your client bank then this information should be relayed to the SWW and to your clients. That way we can update your records and deal with any enquiries we may receive in the future.

Communication channels

Email

It is advisable to add a note to your email footer or signature noting that your business is closing and that what those who would wish to contact you should do.

You should include the date that the business will be closing.

Website

If your business is ceasing trading then your website will inevitably close, your hosting will end and the website will no longer be live. Ordinarily the website will be one of the first places someone will check to find information on your company.

It is an idea to replace your site with a landing page (certainly for the next 2 years) letting clients and visitors know that the business has closed.

Telephone

Telephone lines are another communication method that will lapse/become unavailable after a company closes. If you are happy for a client or their family to contact you after the business has closed then you may wish to provide a number that you can be reached on.

Social Media Platforms

It is clear when a social media platform is no longer in use. It stops sharing or creating content but still retains an audience. You may wish to close the pages or accounts with a final message stating that the business will no longer be trading.

3. Selling your business

If you are selling your business then you will have a number of decisions to make:

Will you be selling your Will bank with the business?

How do you value the business?

Are you selling your client bank?

Will there be a transition period?

What information needs to be provided to your clients?

You have an obligation to tell your clients that you will no longer be responsible for the continuation of the services that they will have already received, or have come to expect.

Lifetime Updates

If your organisation has offered and committed to providing lifetime updates for clients then consideration should be given to who will continue to provide this service if you close down your business or sell it on. In the event that you are no longer going to be providing these services then you should communicate this to your clients.

Selling your Will bank

When it comes to creating an arrangement for buying or selling a Will bank then thought should be given to the accompanying liability of the Wills themselves. By this we mean the quality of the drafting.

You will need to establish whether it is possible to negate future liability when selling your client data or Will bank. If you have purchased a Will bank or a Will writing business then you need to discuss the sale with your insurers before any action is taken.

Ordinarily you will sell the Will bank inclusive with the liability but obviously a buyer would need to do their due diligence as to the quality of the Wills, instructions, client file organisation etc. This could break a Will bank sale if this information does not meet the expected standard. A way to test this would be to provide a random sample of the client files to the purchaser.

If you would like to sell your Will bank, speak to the SWW and we can put you in touch with organisations that often buy businesses and Will banks.

Valuing your business

There are no hard and fast rules when it comes down to valuing a business. Some suggest that 'a business is only worth what someone is willing to pay for it'.

In this industry and from our experience, practitioners never seem to have any problem selling their business and their Will bank along with it.

When asked about valuing a business the SWW response is normally 'value your business at 3 times the annual income'.

You may wish to add value for good will. This should give you a basis with which to begin negotiations.

Retaining an income from your business in retirement

You spend a number of working years building your business and building your client bank (and Will bank). Often this will be so that you have an income from the storage of these documents when it comes to retirement.

As such, it would be a shame not to benefit from this in retirement. There will of course be an administrative burden of returning documents and dealing with client questions. Presumably this is something you will not want to have to deal with.

If you would like to retain an income from your Will bank but would like to pass on the administration to someone else, this is possible. You would need to get run-off cover for your Wills. If the Wills are already being stored by a storage company you would then have to communicate with them and perhaps come to an agreement with them for dealing with the administration of the documents. They may request a percentage of the annual income to cover administration.

You should also consider what arrangements need putting in place should your clients need updates.

Cost of Run-off PII

Run-off cover is ordinarily available through your PII policy provider.

Run-off cover provides you with ongoing cover for your Will bank in the event of a successful claim during your retirement.

If you are a member of the SWW Insurance scheme through the Jelf Insurance Partnership you are entitled to apply for run off cover through the SWW scheme. If you are a sole practitioner and have been using the SWW PII policy for two years then you can apply for free run-off cover.

If you run a limited company and have been a party to the SWW policy for two years then you can apply for the cover. There will be a one off charge of 30% of the cost of your last years PII premium.

Whilst there will be no additional charges, this will need to be reinstated every year and you will be contacted by the insurers. The reason for this is to ensure you still have a Will bank, and to establish whether any claims have been made in the last 12 months. If this is the case then you may no longer be entitled to free run off cover.

Run off is not available where your business has been sold. This is because the liability of your Wills should pass with the Will bank.

Illness, death or incapacity

It is advisable that as a business owner, you consider business succession planning. This way you know exactly what will happen to your business or who will assist in running it should something happen to you.

The Society of Will Writers are on hand to help and can provide advice when it comes to selling your business, retiring, or winding down.

Often illness strikes and is unforeseen. As a member of the Society of Will Writers you are backed by the [Public Indemnity Fund](#). The fund provides that if you have undertaken work with a client and fall ill and are unable to complete it then the fund can assist you by paying another SWW member to complete the work for you.

Conclusion

In conclusion, the key points about closing or selling your practice is communication.

- We would expect members to inform their clients if they were selling or closing their practice.
- Clients should know where their documents are and who to contact for retrieval.
- In addition they should know who you would want them to contact for updates to their wills (if at all).

Doing so will prevent complaints down the line.

If you have any questions about locum arrangements please contact the Society of Will Writers at info@willwriters.com

