HOW TO IMPLEMENT A CERTAINTY WILL SEARCH IN A COURT OF PROTECTION MATTER

As a Court of Protection Deputy working with P’s you may need to identify when your client has written a Will or if a later Will exists than the one being presented and if it contains any provisions within it. The Official Solicitor requests a Certainty Will Search is carried out to identify an unknown Will or to the best of your ability prove the location of the last Will. Not only does this process provide clarity but it provides protection by demonstrating that you have taken adequate measures and proceeded on the basis of the results of the Certainty Will Search.

Our helpful guide provides a step-by-step guide on how to conduct a Certainty Will Search in a Court of Protection matter:

### STEP 1

- Unless your firm is a member of Certainty, a Certainty Will Search, in respect of a Court of Protection matter, must be implemented via the Certainty the National Will Register and the Official Solicitor website (www.nationalwillregister.org/OfficialSolicitorandPublicTrustee)
- The Deputy confirms to Certainty that they are acting on behalf of the client, for example by supplying a scan of the deputyship order or application
- The Certainty Will Search is issued after payment has been received
- As a member firm, you are able to implement a search directly from your account, using alternative wording available from your Account Manager. Please contact your Account Manager, who will be happy to assist

### STEP 2

#### NON-MEMBER OF CERTAINTY

- If a positive match is made the law firm/Will writing organisation that holds the Will (the Holder) responds directly to the Certainty Will Search Team
- The Will Search Team reconfirms to the holder of the Will that the search was carried out by a Deputy on behalf of a living incapacitated client
- The details of the Searcher are passed to the Holder of the Will for them to make contact with the Searcher

#### MEMBER OF CERTAINTY

- If the Searcher is a member of Certainty, the search, issued from their account, directs the Holder of the Will to reply directly to the individual who instigated the search
- The Holder of the Will can however still choose to contact the Certainty Will Search Team to co-ordinate between themselves and the Searcher

### STEP 3

If there is no match, a Certainty Will Search Report is forwarded to the Searcher. Place the report you receive on file to demonstrate that a legally recognised Will search was undertaken.