

## THE PROCEDURE FOR UNSEALING 90-YEAR-OLD ROYAL WILLS

Further to the judgment of the President of the Family Division in *Re: The Will of His late Royal Highness The Prince Philip, Duke of Edinburgh* [2021] EWHC 77 (Fam) this Procedural Note is published in order to set out the process to be followed by the Office of the President of the Family Division, referred to at paragraph 76 of that judgment.

### 1. Storage:

- a. Any sealed Royal will (including the envelope in which it is sealed) shall be held by or to the order of the President so long as the will remains sealed. For the avoidance of doubt, this applies to any Royal will which is resealed following the procedure set out below.
- b. When the will and envelope containing it are not being inspected, they shall be retained in a suitable and secure environment (e.g. a locked safe).
- c. Once the President has identified which will needs to be opened in order to consider the question of whether it should be made available to public inspection pursuant to paragraphs 6 and 7 below, the original will and the envelope in which it has been stored will be retained in the custody of the President.

### 2. Notice of proposed review:

- a. When a period of 90 years has elapsed since the grant of probate to an estate the disposition of which is the subject of a sealed Royal will, the President shall write to the Sovereign's Private Solicitor to inform him/her that a Royal will previously sealed by the Court has fallen due for consideration.
- b. A copy of that notice shall also be copied to the Keeper of the Royal Archives ("the Keeper") and to HM Attorney General.
- c. The Sovereign's Private Solicitor may then also contact any of the deceased's personal representatives who may be available in order to notify them.

3. Attendance at the unsealing:

- a. The relevant envelope containing the will shall be opened in private before the President, the Sovereign's Private Solicitor, the Keeper, HM Attorney General, and any of the deceased's personal representatives who may be available, and its content shall be inspected by them.
- b. The Sovereign's Private Solicitor, HM Attorney General, the Keeper and the deceased's personal representatives may nominate such representatives to attend in addition or in their stead. That nomination would require the approval of the President.

4. The process of unsealing:

- a. The sealed envelope shall be opened in a manner consistent with the highest curatorial standards with a view to preserving the seal, the envelope and its contents in pristine condition.
- b. Subject as aforesaid, the process of unsealing is to be conducted by a professional archivist from the Royal Archives or such other professional as the Keeper appoints.

5. Copying & transcribing the will:

- a. No copies of the will shall be made, and the originals shall not leave the custody of the President. Written notes may be taken by those persons in attendance and approved by the President in accordance with paragraph 3(b) on condition that –
  - (i) the written notes shall remain confidential to the parties identified and approved by the President as per paragraph 3(b), and to anyone notified of the contents of the will in accordance with paragraph 6(b) of this procedure; and
  - (ii) if a subsequent decision is made by the President to reseal the will, any such written notes shall be destroyed.

6. Consultation and instructions:

- a. Once the envelope containing the will has been unsealed and the will has been inspected, the Sovereign's Private Solicitor shall advise the Sovereign of the contents of the will and shall take instructions.
- b. In advance of, or in consequence of, such instructions, the Sovereign's Private Solicitor or his/her representatives may also (at his/her discretion) contact and consult (and in so doing, may share relevant content) with:
  - (i) the personal representatives named in the grant of probate (if alive, or in the case of a corporate executor, still in existence);
  - (ii) any living beneficiary; and
  - (iii) any living relative of the deceased likely (upon the reasonable assessment of the Sovereign's Private Solicitor) to be affected by publication of the will.
- c. The Sovereign's Private Solicitor may also make arrangements for such persons to inspect the original will, subject to approval of the President.
- d. Following the process of consultation described above, the Sovereign's Private Solicitor shall write to HM Attorney General, indicating what instructions have been received and observations made, and inviting HM Attorney General to form his/her view as to whether or not the will should be made available for public inspection.

7. Procedure following unsealing:

- a. Once instructions have been taken and the contents of the will have been considered by HM Attorney General and by any of the parties mentioned in paragraph 3(b) above, the President shall invite representations from each of them as to whether the will should be made available for public inspection, and (if so) the terms (if any) upon which such public inspection should be permitted.
- b. In the event that all notified parties conclude that the will should be left unsealed and become open for public inspection, the Sovereign's Private Solicitor and HM Attorney General shall each write to the President to confirm this. The President shall consider

the parties' recommendation and, if s/he accepts the recommendation, shall make arrangements for the original will, envelope and seals to be surrendered to the Royal Archive for safe keeping and academic research, and for a copy of the will to be delivered to the Probate Registry.

- c. If any notified party considers that in all the circumstances the will should not remain unsealed and should not be open to public inspection, that party must make an application to the Court for an appropriate Order in that regard, in accordance with the same principles and procedures as would apply to an originating application to seal up a Royal will for the first time.