

The Hidden Costs of DIY Wills

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It is often suggested that it is easy to write your own Will if your wishes are simple and your financial situation isn't complicated. Preparing a Will by yourself without incurring legal fees may be tempting, however, a recent Jersey court case serves as a warning to those who may be tempted to undertake this DIY approach.

The deceased was a widower with two grown up children, a son and daughter, from an earlier marriage. In 2012 he made a handwritten Will at a time when he was estranged from his son and his relationship with his daughter was at times strained. He nominated his friend as his executor with his daughter to assist. An executor is the person entrusted with dealing with the assets and liabilities of a deceased person and distributing the remaining assets to the beneficiaries. It is an onerous responsibility and one which carries personal liability should things go wrong.

The deceased died in June 2013 and soon after problems with the Will began to surface. For a start, the appointment of the executor was ambiguous. This was "a major bone of contention" between the executor and the daughter, necessitating additional correspondence with the Registrar of Probate and legal advice for both parties. Taking place within just months of the deceased's passing, this resulted in undoubtedly unwelcome stress and cost for all concerned.

Additionally, the Will did not deal with all of the deceased's assets but only with certain specific belongings, with an estimated value of £50,000. The remainder of his assets were worth in the region of £138,000 but they were not included in the Will, which led to uncertainty as to the extent of the authority of the executor.

Although the Will stated that "I do not wish my son.....to receive any benefit at all from the estate", such statement failed to take account of the portion of the estate to which the son was entitled and it cost the estate more than £4,000 to resolve this issue.

The duties of an executor include being able to produce a true and perfect inventory and account of the estate. In 2016, the executor prepared and sent to the family the estate accounts, however, the daughter did not feel able to approve them and raised concerns as to the executor's handling of the estate. Given the history of the matter, the executor applied to the Royal Court to ask that it

or the estate but could be held personally responsible for the legal fees.

With all of these issues, and strained relations between the family and executor, fees in dealing with the estate amounted to more than £30,000. As a proportion of the value of the estate, such level of fees was considerable, and effectively reduced the beneficiaries' inheritance by nearly a fifth. The cost of a Will drawn by an experienced and qualified lawyer becomes almost insignificant in this context. Preparing a DIY Will is clearly a risk, which can have significant financial implications for those who should be benefitting from the estate.

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endorse his accounts, give directions as to distributions and also to relieve him from any further liability.

The Court commented that they found the executor to be "a sincere and genuine witness who felt that he owed the deceased a responsibility to deal with the estate". He took no personal benefit under the Will