

BADLY DRAWN WILLS A TICKING TIME-BOMB

In a world in which consumer rights tend to be king and where regulation covers most things from holidays, to pensions, the most important decision many of us will make in our lifetime is in a sphere where anyone can step in and potentially destroy our financial and emotional legacy.

At a time when concerns about the increasing impact of Inheritance Tax in British society is hardly ever out of the headlines, anyone can knock on your door and offer to help ease the burden on your loved ones by drawing up a Will.

As we approach a time of year when the emphasis is on exams and accreditation, there is absolutely no legal requirement for someone who writes a Will to have any training in this area. Similarly, they need no qualifications to carry out the job and need have no professional indemnity insurance against which your family could claim, if things went horribly wrong.

That, of course, is the rub of it. Only when we pass away do the mistakes we made start to rebound on our loved ones. It is only when a Will is read that errors come to light.

A Will might be something we don't like to think about, linked as it is to our own mortality, but think about it is something many more of us need to do, according to the Institute of Professional Willwriters. It is very tempting to dismiss the need for a Will, believing that nothing will happen to us for a very long time, feeling that we have no wealth to distribute, or perhaps no family to whom we would want to leave anything.

If we give in to the temptation to stall, or stick our head in the sand, we effectively allow the law to make the decisions that should have been ours. The law has a strict criteria for judging who should receive your assets and this may be far removed from what the deceased may have wanted.

How many of us truly have nothing to leave? How many of us do not have wealth tied up in a property, a life insurance policy, or certain employment benefits. Who has nothing of sentimental value to leave behind to a loved one? Even if we have no family or friends who could benefit, how many of us do not have a good cause that we would wish to assist, if we could?

Apathy in relation to Wills could be viewed as one of the reasons why there is no legally binding regulation in the industry. On the other hand, those who recognise the need to make a Will can be vulnerable, unaware of the going rate for such a service and too willing to place their trust in the first so-called expert who comes along.

It is no exaggeration to say that untrained willwriters are springing up all the time. Knowing that the average customer will have little understanding of the Wills process, or how a Will needs to be worded, such people can easily hoodwink the person paying for their service.

With a total lack of regulation, anyone can set up as a willwriter almost overnight.

The process of willwriting has already been devalued by potential time-bombs in the form of do-it-yourself will packs sold in supermarkets and stationers, with the erosion of professionalism continuing thanks to online willwriting.

Even solicitors no longer need to have trained in the subject, yet they are often some of the most trusted people in the community. Who ever asks a solicitor if they have a professional qualification in a particular field? The assumption is always that they are experts. When it comes to Wills, this could be far from the case.

Common poor practice can relate to Wills being written with glaring loopholes, or written in a manner that is procedurally wrong and which will not stand up, in legal terms, at the time the Will comes to be enacted. Errors in relation to witnesses, dating and signing the Will, use of vague terminology open to a different interpretation legally than that intended and miscalculation of assets are common pitfalls. Some of these can lead to a Will being invalid after it is read, whilst others can create huge problems and lead to costly litigation as battles are fought to clarify what the wording really means.

Errors are not the only bi-product of the lack of regulation. Other 'Cowboy' practices relate to the charges levied by some unregulated willwriters. It is by no means uncommon for a quote to be provided at the time a customer sits down with an unregulated willwriter and then for a hefty bill of several hundred pounds more to be delivered after the will has been drawn up.

Within this minefield, there is truly only one route in which to completely place your trust with justification. Recognising the dreadful state of affairs within the field of willwriting, an Institute was formed in 1991 to try to do what the Government was failing to do and which it still fails to do to this day.

The body in question is the Institute of Professional Willwriters, with a head office in Birmingham and 435 members across England and Wales. Its membership consists of willwriters who want to associate themselves with professionalism, with standards and with self-regulation. Membership is not a question of simply paying an annual fee to have the right to put a logo on a letterhead.

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The demands of the IPW are high and effectively do what the Government should be doing to regulate the industry. Despite this, there are many more potential members striving to get the necessary requirements for membership in place as they recognise the benefits of being part of the IPW's self-regulatory network.

All IPW members must have a recognised qualification before they can practice as an IPW approved willwriter, prove they have no criminal convictions and attend on-going training courses. They must also have a minimum of £2 million of indemnity insurance.

The IPW logo carries two ticks and the Institute should tick all the boxes of any consumer wishing to find a willwriter who can give best advice and make their Will watertight.

The IPW's Chairman, Paul Sharpe, has led a crusade for regulation in this important Willwriting sector for many years. Despite a continuous lobbying for regulation, the Government ducked the issue in 2005 and have effectively closed the book on the subject. Paul Sharpe firmly believes this simply cannot be allowed to happen and has this week (week commencing 30/4/07) briefed Lord Hunt on the reasons why the IPW firmly believes that regulation is vital.

"A Will is effectively a document with a huge amount of financial power that determines how wealth should be distributed and how much of it should be opened up to Inheritance Tax. It can be a tax planning tool and as important a purchase as a pension plan or a life insurance policy. It is ludicrous that whilst the FSA is operating stringent financial regulations in the financial services market, no Government body, or appointed representative is checking on what is going on in the Willwriting sector.

"The IPW is the only safe place in which to place trust when a Will is needed, purely because we recognise the shocking practices that are going on within our industry and have absolutely no wish to be associated with them."

Interestingly, the charity sector is recognising the need to work with the IPW and the IPW's newly appointed Chief Executive, Peter Rock, is forging important relationships with key representatives within this sphere. Charities recognise poor willwriting is depriving them of bequests, thanks to errors that invalidate the will and thus force the division of assets to be decided by the law. Working with IPW professionals can help overcome this obstacle, which is why Peter Rock's message is being met with such approval by leading charities.

As the IPW continues to provide excellence in the willwriting sector, the shame is that consumer ignorance in relation to the pitfalls of making a Will remains so high. The bargain price tag leads commentators to mistakenly believe that DIY and online Wills are vehicles that are on the consumer's side, whilst the grubby side of the industry is seldom exposed as many of the disasters caused by the lack of regulation are still in the pipeline.

Is there a ticking time-bomb that will only come to light in 10 or 20 years time?
Given the current situation, the only answer to that has to be affirmative.

Press calls: Jane Hunt, Catapult PR, 01253 595558

Notes to Editors

We recognise that there is a big issue to explore in regard to this subject matter and are keen to assist any media who wish to pick up on the points raised. However, please be aware that it is difficult to access case studies of wills that have been drawn up wrongly, as they rarely come to light.

If you would like to explore this story further by interviewing an IPW Committee spokesperson, or an IPW member in a location near to you, please contact Catapult PR to arrange a suitable time.