

Podcast Script: DIY Wills

Speaker: Nikki Allen & Kate Wombwell

Practice Area: Probate



“Welcome to iLegal.info where we at FJG keep an eye on the law for you.

“A will is one of the most important documents you can make, so why would you want to draw one up yourself rather than instructing a lawyer? But thousands of people choose the do it yourself route, possibly to save money. However, what they don’t realise is that it could cost their family a great deal in the long run when a lawyer has to sort out the problems after that person has died if they are no longer there to sort it out themselves. Listen now as I talk to Kate Wombwell about the dangers of a do-it-yourself will.

“Kate, why is important to make a will?”

“Well there are lots of reasons but here are some main ones. To avoid an intestacy is probably one of the most important reasons to make a will and that ensures that your assets pass to the right people, those that you love and wish to provide for. Another reason is when you die your executors who you’ve appointed can handle the administration of your estate without undue problems. You can also ensure you pay as little inheritance tax as possible by making a will. You can appoint testamentary guardians if you have small children and trustees to hold money on their behalf. You can also leave funeral directions in your will and to provide for vulnerable beneficiaries by way of trusts – that’s a very important matter. Also, if you make a will you are revoking a previous will that may be well out of date. These are some of the reasons why it is very important to make a will.”

“You’ve mentioned executors, what are executors?”

“These are the people you choose to carry out your wishes. You can appoint as many as you wish but only four can prove the will that is when it goes to probate. Ideally, you should appoint two executors who have sensible heads on their shoulders as it can be quite an onerous task. Many people will appoint professional executors, for example their solicitors as this will avoid any family quarrels or conflicts. Most family executors will consult a lawyer anyway who will then act on their behalf.”

“What are the requirements for a valid will?”

“In its simplest form to be valid, a will must be in writing, signed by the testator that is the person making the will or by some other person in his presence and by his direction, for example if he is blind. It must also be witnessed by two competent witnesses present at the same time. It also helps to date a will although if it isn’t dated this is not fatal.”

“I’ve heard about people making home-made wills but what can go wrong with a home-made will?”

“There can be endless problems but one of the most common is that it may not be legally binding as it doesn’t meet the requirements for a valid will. For example, there is only one witness or the testator actually fails to sign it. Home-made wills are usually kept at home. This could be destroyed in a fire for example or stolen, or even accidentally thrown out with the rubbish. People who make home-made wills are inclined to put in too much information with unexpected results. Here’s a little

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example: the wording ‘I leave all my worldly goods to my wife but when she dies everything to my children’ actually creates a life interest for the testator’s wife rather than giving her everything which is probably what the testator intended. Sometimes people fail to dispose of all their assets in a home-made will. They set out specific gifts very carefully of the house, their chattels and even bank accounts but fail to round up everything else they may have and this can consequently lead to an impartial intestacy and a bit of a nightmare. It has known for a will to be validly executed but not make any sense at all because the testator has randomly picked precedents from an earlier will or even off the internet and failed to leave clear instructions.”

“So is it necessary to use a solicitor.”

“No, but it is advisable. Lawyers are legally qualified and they are also regulated and insured and for those reasons alone are the best people to draw up a will for you. I mean let’s face it, would you do your own rewiring or would you rather employ a properly registered electrician. You could have a face to face meeting with a lawyer who will listen to what you have to say and then advise on how your wishes can be incorporated in a will. You may have complex family issues, for example a living partner, step-children, possibly children going through divorces or with alcohol or drug problems. All these can be openly discussed with your lawyer and solutions can be found. Anyone watching the BBC Panorama programme in August will be aware of the dangers of using unregulated will writers so I sadly do advise everyone to use a solicitor.”

“Is it expensive though to make a will?”

“Most lawyers will charge between £100-£300 for a basic will. They will also store your will free of charge and some will even send you a reminder to review your will from time to time to make sure it still meets your requirements. Do be aware of cheap will writers, they are not necessarily legally qualified and what appears to be an inexpensive will could end up costing you several hundred pounds, especially if they charge an annual storage fee. So don’t cut corners as this could result in high legal costs following your death, or at worst an invalid will which could mean that your estate passes to people you don’t wish to benefit.”

“And who can they contact at Fisher Jones Greenwood LLP for more information?”

“You can contact me, my name’s Kate Wombwell, on 01206 217585, I’m based at our town office, or my colleague Susanne Grimwade on 01206 835217 who is in our out of town office on the Colchester Business Park.”

“Thank you for listening to iLegal. For further information contact us at Fisher Jones Greenwood LLP on 01206 578282 or email us at info@fjg.co.uk or visit our website on www.fjg.co.uk.”