

Where there's a will, there's a family argument

What you should do if you are the executor of an estate

David Byers

October 7 2017, 12:01am,

The Times



Many executors choose a DIY approach to administering a will because of the obscure and expensive charging methods used by legal firms

GETTY IMAGES

Families are taking their squabbles over inheritance and the content of a loved one's will to the High Court in record numbers. Statistics researched for Times Money by Hugh James, the top-100 law firm, show that 100 disputes over the mismanagement of assets reached the court last year, up from 69 in 2015.

The firm has blamed the rise on the growing number of appointed executors taking a DIY approach to administering a will.

The disputes most frequently arise because other family members are unhappy with the way the will is being executed and wish to challenge the administrator's handling, experts say.

Many executors are choosing to go it alone to save money because of the obscure and expensive charging methods used by legal firms. Research last year by the Legal Services Board (LSB), the industry regulator, found that only 16 per cent of firms that dealt with wills displayed their prices online. Hourly rates varied from £50 to £375, while companies that specified an overall fee charged anything from £150 to £60,000 or more in the case of particularly complex or expensive estates.

“While in many cases family or friends are well placed to handle a trust or estate in a professional and cost effective manner, unfortunately there are instances where they lack the skills to do the best job, or are too close to the situation to act with the necessary independence and objectivity,” says Roman Kubiak, the head of contested wills, trusts and estates at Hugh James.

Matthew Evans, a partner at the firm, says the industry is trying to improve pricing. “There is definitely a move towards fixed-fee rather than hourly services, which we believe is more transparent,” he says.

The figures coincide with statistics collated last month by Nockolds, solicitors, showing a 36 per cent rise, in High Court inheritance disputes, where family members argue over the contents of a will. They went up from 116 in 2015 to 158 last year.

Daniel Winter, a partner at Nockolds, says the complex nature of modern families, with large numbers of claimants, and rising property prices were causing more frequent arguments.

The Lord Chancellor rejected calls in 2013 for will-writing services to be regulated — a verdict that the LSB called

“terrible news for consumers”.

Going it alone

If you’ve been left in charge of executing a will, here’s what you should do:

- Register the death at a local register office. Make sure you have the latest copy of the will and identify the assets of your loved one’s estate.
- Pay your loved one’s inheritance tax. The value of inheritance tax depends on the value of assets. It is paid at a rate of 40 per cent on assets above £325,000, or 36 per cent if you give at least 10 per cent to charity.
- Get a grant of probate. This is the document authorising you to deal with the estate. You must apply to the Probate Registry and pay a fee of £215. Get several copies so that banks, other lenders and pension providers are informed about the death, and that you are in charge of the estate.
- Decide whether to get a solicitor. In 2016 37 per cent of executors administered estates compared with 28 per cent the year before. If you go it alone, be aware that you’ll be liable if errors arise — common ones include miscalculating the inheritance tax liability or missing out on reliefs.
- Pay out to beneficiaries, using an executor’s account, which can’t be your personal bank account.