

# the briefing

straightforward and honest legal advice to take the stress out of tough situations

## Taking professional advice is the best advice

At some point in your life, you may be asked by a relative or friend to act as their executor. It is an honour to be asked and a mark of respect and trust. It can also be hard work, time consuming and a great responsibility and, for that reason, many people choose to appoint a firm of solicitors to take on the role. So I was disappointed to read a recent article in the Times by Laura Whateley, who warned clients to “think carefully before appointing a solicitor or ‘professional will-writer’ as executor”.

The article went on to give accounts of unhappy beneficiaries accusing professional executors of charging exorbitant sums to administer an estate. I do not know the circumstances of that particular estate, and I agree that whilst the sums quoted do appear to be exorbitant, there is no detail about the circumstances leading to those costs. I do know that there are any number of factors and reasons that can cause administration costs to escalate; the prime one being disputes between beneficiaries or disappointed beneficiaries – those whose expectation of an inheritance did not materialise. Whether or not a professional executor is appointed in those circumstances, solicitors are likely to be engaged to resolve such disputes, and large costs are inevitable. Such costs can often be disproportionate to the value of the estate.

As solicitors, our role is to listen to our clients and advise them of their options. Clients can appoint whomsoever they wish to act as their executor and will make the right decision for themselves once they understand all of the options. They may decide that a professional appointment is best because they can foresee a potential dispute between family members or beneficiaries in the future, or the need to appoint a professional administrator to minimise disputes between beneficiaries who simply could not work together if they were appointed as executors.

Solicitors have clear moral and ethical guidance from the Solicitors Regulation Authority as to how they should fulfil their role as an executor. Those who fail to follow the rules of best practice may be subject to professional sanctions and a requirement to make financial compensation to the estate.

It is true that all solicitors will charge fees to administer an estate – whether acting as executors themselves, or advising lay executors. Some solicitors will charge large fees. This may be entirely appropriate and proportionate to the size and complexity of the estate, and the work they have had

to undertake. There are duties on professional executors to disclose their likely administration costs to the person making the will, as well as to the final beneficiaries of the estate after the person has died. Costs may not always be as first expected, if, for example, there are beneficiaries who make repeated enquiries of the executors or there is a dispute. Cases of solicitors overcharging are actually few and far between although the ones that do go wrong generate a lot of publicity and foster mistrust due to one-sided reporting and sensationalising these rare cases. The solicitor is always penalised, financially, sometimes criminally and, unless it was a genuine mistake, prevented from continuing to act as a solicitor – thus preventing that solicitor from doing it again in the future.

As solicitors, we work to serve your best interests and we do so within a fully regulated industry.

Our Private Client team includes a number of solicitors who are members of The Society of Trust and Estate Practitioners (STEP), and Solicitors for the Elderly and our continued commitment to client service has just been recognised by the award of the ‘Excellence in Private Client Practice’ at the Law Society Excellence Awards 2017.

When you meet with one of our team to discuss your will, they will help you understand all of your options. You can then decide what is best for you, and our team can ensure your wishes are put into effect. Please do not let headlines like these put you off taking good profession advice.

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**If you would like to discuss this article further please contact our Partner, Marinella Hollies at: [Marinella.Hollies@wmlegal.co.uk](mailto:Marinella.Hollies@wmlegal.co.uk) or call 01803 832191.**

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