

# Why you need a Will Clarity Statement



## Why writing a Will may not be enough!

- ❗ **ONE IN FOUR** people would mount a legal challenge against a loved one's Will
- ❗ Complex relationships can often mean that relatives and dependants are left feeling disappointed with what they inherit
- ❗ Estate values can be depleted by court fees or even wiped out

### In Detail

With today's 'modern' lifestyle, the increase in divorce rates, remarriage and cohabitation, together with families living further apart leading to more complicated family structures, means the need to make a Will has never been greater.

However, more complex relationships can often mean that relatives and dependants are left feeling disappointed with what they inherit. A typical example of this is inter-generational lending, perhaps a parent loaning money to one of the children to enable them to get on the property ladder now becoming commonplace. This can lead to disagreement on the death of that parent as to how the other children or step children are treated.

#### **It's my money and so it's my decision who gets what!**

When we decide **who** we want to benefit after we pass away, we naturally think of those closest to us and who we have an active relationship with. In English Law, the basic principle is that of '**testamentary freedom**' which means that people are able to leave their property to **whomever they choose** in their Will regardless of family connections.

#### **Surely, all I need to do is write a Will that reflects my choices?**

Ideally yes, however with the increased complexity of modern family structures, more people having a sizeable estate to pass on can mean that it feels there is something worth fighting for, particularly at a time when emotions are running high. As a direct result of this, the legal industry is seeing a **growing number of cases** where people are seeking legal remedy from being left out of a Will entirely, or receiving less than they expected as a deliberate act on the part of the deceased.

#### **Claims**

A growing '**compensation culture**' and people becoming more aware of their legal rights from stories and articles in the media and the ability to bring a claim if there is something they see as unfair or amiss, means more of an incentive and appetite to challenge a Will. The number of inheritance disputes reaching the High Court each year has soared to a record high, a trend that lawyers put down to the intricacies of modern family life and rising property prices.

## In Detail

A recent survey by Direct Line revealed that **ONE IN FOUR** people would mount a legal challenge against a loved one's Will if they were unhappy with it!

With more and more people **relying on an inheritance** to get on the property ladder or to provide for them in retirement, when someone is left out of a Will, or stands to inherit less than they were expecting, this can trigger a dispute and lead to a potential claim.

If the claim was successful, this could mean that those you specifically wanted to inherit from you could end up losing out, or even if the Will was upheld the cost of the fees involved in the claim could seriously reduce the size of your estate, or wipe it out entirely!

### It's all about the "WHY?"

Writing a Will can be tricky but trying to understand a loved one's Will after their death can be agonising for some and not being able to understand the reason "**WHY**" a decision was made can lead to the Will being contested.

People can be surprised and hurt by the contents of a Will. The problem is that a Will only details "**WHAT**" you want to happen to your property after you have gone, but does not go into the reasons "**WHY**" you want your assets to be disposed of in this way. Obviously, you will not be there in person to explain or defend your decisions which could mean **your voice would go unheard** against that of the person contesting your Will.

At the time of drafting your Will, you may be confident that a claim would not be made however it is worth remembering that it is the situation **at the time of death** that is important and not the situation today.

### So, what can be done?

Your **wishes and reasoning** for the terms of your Will are relevant and need to be given suitable weight. It's clear that it's of equal importance to both accurately **record** all events during the instruction taking process and **retain** these along with the Will, in order to be able to fully respond to any potential future claims and so **protect your wishes**.

Many companies rely on simply making notes when taking a client's Will Instructions and store these with the Will file in case of need at a later date. Unfortunately though, these notes may be **insufficient**, go **missing**, or their meaning **lost in translation** with the passing of time. In direct contrast to this, we offer both

**Will Clarity & Execution statements** which are totally unique to the legal industry.

### What is a Will Clarity Statement?

A Will Clarity statement is something that **every Will writing company or Solicitors firm** should be offering their clients when drafting their Will. Not only does it explain the **WHY** behind your wishes but it also includes the **Where**, the **When**, the **How** and the **Who**.

In simple terms, it is a statement written in plain English, setting out your wishes for the distribution of your estate on death but more importantly, **the reasoning** behind your decisions and the surrounding circumstances. This is automatically compiled with the information provided throughout the entire instruction taking process, ensuring that nothing is missed. The Will Clarity statement is then read, agreed, signed and stored with the Will for safekeeping.

The purpose of the Will Clarity statement is to provide guidance to your executors, trustees and family members after your death, making clear exactly what your wishes are and setting out your thought process at the time of making the Will, **speaking out where a Will cannot**.

A Will Clarity statement can be **crucial** in helping to manage family and loved ones expectations, whilst **detering any potential claims** against the Will.

### The Will Execution Statement

For a Will to be valid there are three main formalities which need to be observed.

- 1) The Will must be in writing
- 2) The Will must be signed by the Testator
- 3) There must be 2 independent witnesses who attest to the testator's signature

Not only does the Execution statement record the above it also reaffirms that the instruction taker is satisfied that your capacity was not in doubt at the time of execution.

### Don't leave it to chance

Unfortunately Wills can and will continue to be challenged by those who have been cut out or not left as much as they felt they should have been. When deciding who you want to benefit under your Will, it is necessary to carefully consider the possibility of such a **challenge after your death**.

Make sure that the company drafting **your** Will offers you and your chosen beneficiaries, the protection of a **Will Clarity Statement**.

For more information please call us on  
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