

Wills, Probate and More



Affordable expertise delivered in your home

The secrets that will help you to save money in the legal marketplace

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1. Definition of “Lawyer” and “Law Firm”

The word “lawyer” in this document is loosely used to indicate anyone working in the legal profession – solicitors, legal executives, paralegals and experienced non-qualified individuals.

The expression “law firm” is loosely used to indicate any form of organisation working in the legal profession – firms of solicitors, banks, trust companies, will writing companies etc.

2. Introduction

The majority of lawyers are like you – honest and hardworking. More often than not they try to give value for money.

However, they have ways of maximising their profits that they would probably prefer the public at large not to know, or at least not to scrutinise too carefully.

Forewarned is forearmed.

If, after reading our website, you decide not to instruct Wills, Probate and More to assist you, and you instruct a different law firm, you will be in a better position to negotiate a good deal for yourself if you have read this document.

If by the time this document comes into your hands you have already instructed another law firm, it may not be too late to use some of the information it contains to improve matters if you feel that you are paying too much for the administration of an estate.

3. Lawyers or Salesmen?

Increasingly, lawyers are facing pressures as a result of deregulation and competition.

Most lawyers now have fee-earning targets to meet to justify their salaries, just like salesmen.

They are required to bill high, to bill often, and to think of innovative ways to bill you and to sell you more legal services.

Why should this be an issue? – Read the rest of this document to find out.

4. Conflicts of Interest

Most Lawyers go to great lengths to avoid conflicts of interest in many areas of their work.

Somewhat surprisingly, they do not seem to take the same level of care to avoid conflicts of interest in the area of Wills and Probate.

There is a conflict of interest on most occasions that lawyers recommend their own law firms to act as executors in a Will. The conflict lies between giving you the best advice about who to appoint as executor, and giving the advice which is best for the law firm.

When a lawyer recommends that he or his firm should be appointed as executor(s), the advice almost cannot help but be biased, as the lawyer will usually be recommending his firm to act for commercial reasons – to ensure that the Probate work is done by him or by his firm.

The question of whether his firm is better placed to act than the client's family or indeed other law firms is unlikely to be considered.

Logically, the best result for the client's family in most cases would probably be obtained by giving them the option when the time arose as to where to turn to for legal advice. This result could be obtained by advising the Testator to appoint family members to act as executors, not the law firm drawing up the Will.

The family members could then approach their legal adviser of choice to assist with the probate work.

Once a lawyer is called upon to act as executor, a further conflict of interest becomes clear: the lawyer who is doing the work and charging for it is also the same person who has to approve the bill.

The lawyer in his capacity as professional executor has to raise a bill for approval by the consumer, who is.....himself in his professional capacity as executor!

5. Two bites of the Cherry

The situation sometimes arises where the partners in a firm of lawyers are appointed as executors, and they have a lawyer who is not a partner to prepare all the documents and do all the day to day administration of the Probate matter.

The lawyer doing the day to day administration will raise invoices on behalf of the law firm for his work.

One or two of the partners will sign the papers to apply for a Grant of Probate and sign various other documents, and will raise separate invoices on behalf of the law firm for their work.

Should double or multiple invoicing like this matter? – It depends on how seriously you take the issues raised in “Conflicts of interest”, and Lawyers or Salesmen”, above.

6. The incentive for lawyers to act as executors

There are many advantages to a lawyer in being named as executor in a Will.

If a lawyer is named as the executor in a Will of a person who has died, he has the right to administer the estate of that person. This means that he will have a legal job for which he will receive payment.

He may also be able to charge more money for the work than for the other work he does.

Probate work has a reputation amongst lawyers for being a particularly profitable line of work.

Lawyers can charge high fees for Probate work (higher than they charge for much of their other work) and there are often ancillary tasks which will come their way as a result of the original Probate task.

The lawyer will usually give himself or his firm any conveyancing that comes with the probate work.

He will also more than likely carry out the income tax and accounts work himself.

If he is not named as executor, he will have to wait and see whether the executors named in the Will ask for his assistance. And if they do, having first read this document, he may find himself involved in arduous negotiations to secure the work.

7. How The incentive for lawyers to act as executors may affect the advice about your Will that lawyers give to you

Since there is an overwhelming incentive to lawyers to act as executors, those lawyers involved in probate work normally have measures in place to ensure that they are given the opportunity to act as executors as often as possible.

The way that they do this is by having themselves named as executors in Wills that they prepare for you, the public.

They and their staff will be briefed to arrange this whenever they can.

8. How the importance of Probate work to lawyers may affect the advice on Probate given to you

If you visit a lawyer to ask for advice about probate, you will probably be given advice about what is involved, then told to leave all the relevant documents with the lawyer and to let him administer the estate.

You may never be told what other options could be available.

This is because the more work that your lawyer does, the more he will be paid. And critically, if he does the entire Probate task (i.e., gets the grant of Probate and administers the estate), he may be able to charge a percentage fee for his efforts in addition to his hourly rate.

He may also be able to channel any additional work to his own firm, and possibly charge it out at premium rates compared to the open market rate.

9. So what are the options your lawyer might not tell you about?

For full information about the options available to you to save money on probate buy our book "Probate made Simple". This is the book that your solicitor doesn't want you to read. It explains how to go about saving substantial sums of money on probate legal fees. It is not just another "How to do Probate" book. It gives you insider secrets that will allow you to understand what your solicitor does and how your solicitor works. It has been written by a retired solicitor with over 15 year's experience of working exclusively in the field of Wills and Probate. Most importantly, it gives you the key information that will enable you to negotiate away hundreds or thousands of pounds in legal fees.

If you don't want the lawyers to take a sizeable chunk of your inheritance, you can't afford not to buy this book. At only £12.99, it has to be one of the best investments you will ever make.

10. How much can my lawyer charge? - Basis of charging for Probate

Probate work is amongst the most profitable work undertaken by lawyers. It may be the most profitable line of work for many law firms.

The basis of charging for Probate varies from law firm to law firm.

Some charge on the basis of a (usually high) hourly rate; some charge on the basis of a percentage of the value of the Estate; some get the best of both worlds and charge on the basis of an hourly rate plus a percentage of the value of the estate.

11. Charging Clauses

Almost all professionally drafted wills contain charging clauses. A charging clause is a clause which entitles a professional executor to charge for his services in administering an estate. A typical charging clause will be something like this:

"Any of my Executors or Trustees who is a professional engaged in any profession or business shall be entitled to charge and be paid all professional and other reasonable charges for any business done or services rendered or time spent by him or his firm in connection with the administration of my estate or the trusts powers and provisions of this Will whether or not within the

scope of his usual business or profession; and whether or not the work requires the employment of a person who is professionally qualified or skilled”

Such a clause is desirable if professional executors are appointed to administer your estate.

Professional executors will expect to charge for administering an estate – which is only right and proper.

You will note that a section of the clause is underlined.

This section entitles the professional executor to charge for work done in connection with an estate even if that work does not require any professional input. Again, this is perfectly in order as professionals cannot be expected to work for nothing.

However, there is an important point to be made here. As the underlined section implies, much of the work in the administration of an estate does not require professional skill and expertise – all it requires is a person of average intelligence and education to make a modest effort and do it. This probably applies to at least 50% of the work involved in administering an estate.

So a high price is paid as often as not for work which does not require the attention of a legal professional.

In many cases you could administer an estate yourself and employ a lawyer just to give you advice and support with the legal issues.

12. Why do lawyers usually store Wills free of charge?

Lawyers will generally offer to store Wills free of charge. This is not entirely altruistic.

Storing Wills gives lawyers the opportunity, if they are not named as executors, to get to meet the executors named in the Wills at an early stage and to offer to do the probate work for the executors.

Often this offer is accepted.

It is widely acknowledged that the key to a profitable probate department is a large Will bank, i.e., a large number of wills retained in storage by the firm of lawyers.

Please note that the fact that a lawyer has offered to store your Will does not guarantee that your will is going to be stored in ideal conditions, or even particularly safe conditions. Storage facilities maintained by lawyers vary widely, and before

accepting the offer of free storage from a lawyer, you would be wise to ask what the storage conditions entail. Is your will going to be held in a fireproof cabinet? Will the container be waterproof? Will the lawyer be insured against loss? What are the skills of the people maintaining the storage records?

Paying for storage might in many cases be a better option.

13. Disclaimer

All explanations of the law and legal practice given in this document are intended as no more than outlines for the prospective legal client. They do not replace the need to take professional legal advice. It is recommended that professional legal advice is taken by anyone thinking about acting on any of the issues mentioned in this document.

Wills Probate and More Ltd does not accept responsibility for loss occasioned to any person acting, or failing to act, as a result of the content of this document.

14. Further Information

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