



Safeguarding Your Legacy

Much has been said recently about willwriting following the publication of a report by the Legal Services Consumer Panel recommending that the provision of willwriting services should be regulated.

The Institute of Professional Willwriters (that we are a full member of) provides its own form of regulation of its members which is at least equivalent to that of the regulated legal sector.

We welcome the conclusions of the LSCP, however there is confusion about who is best placed to provide a willwriting service. We feel that recent headlines such as *'Thousands ripped off by unregulated willwriters'* (BBC News 18th July 2011) amount to scaremongering with no evidence to support this claim and our concern is that it might deter more people from making a Will. Cowboy willwriters, whether solicitors or not, are not easy to spot so we have devised a 10-point checklist to help you to identify who is best placed to provide willwriting services and prevent you from falling prey to unprofessional operators.

Top Tip 1

Understand the market. There are two sorts of providers: solicitors and willwriters. All solicitors are regulated. Some willwriters are regulated by the IPW through its Code of Practice which has been approved by the Office of Fair Trading, but willwriters who are not members of the IPW will be subject to a weaker form of regulation, or no regulation at all.

Top Tip 2

Check that the willwriter knows what they are talking about. Willwriters are not the only people who can offer Wills without any qualifications in the subject. A solicitor can become qualified as a solicitor without studying Wills. Ask about qualifications and training and ask to see evidence of their expertise. If they refuse or are offended by your request – look elsewhere.

Top Tip 3

Check that the willwriter has professional indemnity insurance. This insurance will compensate beneficiaries if a mistake is made in a Will. It is mandatory for all solicitors to have this insurance and it is compulsory for all members of the IPW to have this cover.

Top Tip 4

Be suspicious of low cost Wills and special offers. If it looks too good to be true, then it probably is. Some providers set their fees for Wills at temptingly low prices just to attract interest and then sell other services at unnecessarily high costs in order to make the transaction profitable. Others offer never-ending, apparently-discounted, special offers.

If a Will costs less than £100 for a single person or £150 for a couple (excluding VAT), then it's difficult to understand how money is being made, unless corners are being cut or money is being made elsewhere.

Top Tip 5

Ask to see a price list of ALL the services provided. Other services, such as Lasting Powers of Attorney and trusts may be advantageous but some providers charge extortionate prices for these services because they are not part of the headline cost of making a Will. Understand what the full cost of the service could be, because the cheapest Will may not be the best solution.

Top Tip 6

Ask about cancellation rights without being liable for costs. If a willwriter is seen in someone's home, the law gives a 7-day cooling-off period. Be suspicious if a willwriter asks for this right to be waived unless the Will needs completing urgently.

Top Tip 7

If the transaction is paid for before it's completed, find out what happens if the willwriter fails to deliver the service, or it is delivered late or there are complaints about it. Any member of the IPW who collects a payment up-front has to be part of a scheme run by the IPW that will refund the payment or provide for the service to be completed by another member in these circumstances.

Top tip 8

The willwriter does not have to be appointed as the executor of the Will. Administering an estate may not be difficult so family or friends can be appointed. If they need assistance, they can always employ a professional to help them with some or all of the work and agree fees with them accordingly.

Top Tip 9

NEVER pay a fee at the time of making a Will for someone to administer the estate after death. There can be no guarantee that the firm that is paid the money will still be in business after death and therefore they might not be able to provide the service already paid for.

Top Tip 10

Find out what happens if things go wrong. A decent willwriter should provide this information without having to be asked for it. If a solicitor is chosen, the matter can be referred to the Legal Ombudsman and if a member of the IPW is selected they can be referred to the Estate Planning Arbitration Scheme (EPAS). Both are completely independent.

We hope you find this useful, but please do not hesitate to contact us for further information.

EstatePlanningMatters