

Why it is important to seek professional advice when making a Will and to keep your Will under regular review

In a recent case, which came before the Courts, Mrs Gill left all of her estate when she died to the RSPCA and made no provision by her Will for her only daughter.

After Mrs Gill's death, the Court set aside the provisions of the Will - one of the grounds being that Mrs Gill had been pressurised into making a Will in favour of the RSPCA against her wishes by her late husband.

It is therefore always safest to take professional advice when making a Will and to keep your Will under regular review. If your Will were to be challenged after your death, significant legal costs may be incurred, which could be deducted from the value of your estate - thus reducing the value of your estate for those whom you wish to benefit.

In another case which came before the Courts, a Will was held to be invalid when the deceased entered into a registered civil partnership after making his Will. This is because it is a general rule of law that if a person makes a Will and then enters into a registered civil partnership or marries, the Will would be revoked unless the Will incorporates some very specific wording. Unfortunately the Will in the case which came before the Courts did not incorporate the correct form of wording and the Will was therefore found to be invalid.

It is therefore crucial to take independent professional advice if your circumstances change - if for example,

- you were to marry or enter into a registered civil partnership or;
- if you were to become divorced or;
- if children / grandchildren were to be born or;
- if you disposed of an asset (such as a house) which you had specifically included as a gift in your Will or;
- if a relative or other person in your Will were to die before you

If your Will is kept under regular review and if you receive proper professional advice when you make or change your Will, this could reduce the possibility of a claim or challenge being made against your estate after your death and thus minimise potential legal costs, which could otherwise arise if such a claim or challenge were to be made.

If you would like any further advice or assistance regarding your Will, please contact Margaret Gale or Frances Hemus in our Private Client Team.

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