

News Release:

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Where there is a will there's a way

Or at least you hope there is! Years in legal practice have taught me to be very wary of DIY wills.

Many people are reluctant to pay a solicitor a fee for something which they think they can do themselves for a fraction of the cost and they use an off-the-shelf will form bought from a high street store. However, without expert supervision, people can complete them incorrectly or omit details which might result in a partial intestacy. Indeed, they may even fail to sign the will in accordance with the necessary formalities to make it valid.

If it is invalid - or if there is no will - an application to court may have to be made costing extra time and money. Also, before the court issues 'grant of confirmation', allowing an executor to administer the estate, the court will insist upon a special insurance policy called a "bond of caution" (pronounced "cayshun") being produced. There is a minimum fee in the region of £300-£400 and, for larger estates this can run into thousands of pounds, an unnecessary expense which can be avoided by having a will drawn up professionally.

Many people in Scotland are also unaware that even with a will leaving everything to one's spouse or civil partner, children can still claim rights in their parents' estates, being a one third share of the net moveable estate (i.e. everything except any house) on the death of the first of either the husband or wife, or a one half share of the net moveable estate on the death of the second. If, however, a bequest is left in the will to child, the child cannot claim both that legacy and also the legal rights. It is always wise to seek legal advice about how to deal with this.

Bereavement is very stressful for families at any time. I do recommend you try to make it easier for your family by seeking the advice of a solicitor to ensure that your will is in order.

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