



SUBMISSION TO THE LEGAL SERVICES BOARD

19th June 2012

DPL Background

Documents Plus Limited (DPL) has over 20 years' experience and expertise in the Will Management System marketplace both in the UK and internationally. In England and Wales, DPL supply directly, or through leading legal publishers, a range of standard systems – Will Creation Systems - to the legal profession, Will writers and accountants. DPL also supplies full customised Will Management Systems to organisations involved in high volume delivery e.g. on behalf of banks. DPL considers that 23.5% of all Wills produced in England and Wales are done so by a DPL supplied system, with the majority (over 70%) that are written, being manually/word processed.

DPL is focused to deliver, at an affordable level, a tool for users to provide a high quality, consistent service to their clients.

Instruction Taking Process with a system

Systems are now sophisticated and except in very special situations, should be capable of collecting all appropriate information to generate the Will. Based on prior responses the system should intelligently only ask relevant questions. These systems can be linked to other applications to provide other data e.g. postcode software.

Many systems are designed so that both the Will-writer and client both view the same screen. This ensures that personal or possible sensitive issues are addressed objectively and enables both parties to discuss the proposed Will as viewed on screen at that meeting.

However those practitioners who have no experience of this will often claim that this approach would not appeal to most of their clients. Our experience is quite the reverse: clients very much appreciate being involved.

Some practitioners would rather not show the system constructing the Will on the grounds that this might prejudice their ability to charge a higher fee for their perceived drafting skills and time.

Instruction Taking Process without a system

We regretfully consider that most providers still use a blank paper approach to collect Will instructions coupled with the use of word processing and cut and paste to draft the Will.

In these circumstances the Will-writer is relying upon his or her expertise and experience. This, for obvious reasons is not preferred. It is easy to overlook relevant factors which would surface if the on-screen or a paper form had been used. Many times, rather than asking questions, assumptions are made.

If a paper form is used, with its inability to expand and because of the myriad of permutations concerning the wishes of a client, it is common for the form to be insufficiently flexible or detailed. This can involve attaching extra pieces of paper with information that might not then be correctly structured. Conversely, a comprehensive Will paper questionnaire is usually long and tedious with many questions being unnecessary.

Will preparation with a system

A system can be set up so as to ensure that:

- only an authorised person can use it;
- controls are in place to reflect business decisions e.g. ensuring that all documentation is required to be checked by a further authorised person;
- an audit of any edited changes to a system-created Will is retained.

In the building of the Will, a system should:

- logically test the inclusion and order of each Will clause;
- correctly include all beneficiaries and appointed persons/organisations, from collected information;
- automatically deal with the numbering and pagination of the Will document;
- ensure the correct referencing within a Will clause of prior or subsequent clause numbers.

Will preparation without a system

We are told by many practitioners that they have a bank of Will precedents/templates which they manipulate through word processing with the use of cut and paste.

If standard word processing is used the likelihood is that there will not be a consistency of content and the client may well expect to receive differing documentation according to the particular Will-writer they see, even in the same organisation.

Word processing is prone to error by perpetuating mistakes within a clause and/or by the drafter omitting to include a required clause.

Will preparation is increasingly more complex and it is unfortunate that a high proportion of Will-writers are slow to embrace new technologies.

DPL is confident that an existing system user having had past experience of word processing would maintain that they are able to deliver a better service to their client using a software system and would not willingly return to word processing.

The LSB report refers to the risks posed by “dabblers”. (Page 18 Para 47). DPL contends that such a provider would be less prone to error by using the up to-date guidance within a software system than any other approach.

Commentary

It is considered that clearly reporting upon the Will should be an essential part of good practice. This would address the worrying statement in the IFF survey that showed 14% of clients did not understand their Will. The client should also be made aware in what circumstances it would be necessary or prudent to review the Will they have just made.

Additionally, it is desirable to have such a document so that this can be referenced at times after the making of the Will, when advice then received may possibly be forgotten or hazy.

If subsequently it is necessary to review the recorded instructions taken and advice given, it is good evidence as to those matters discussed.

Further Advantages and Considerations as to the use of software systems

- Software systems can, and should:
 - be based upon the knowledge and experience of experts
 - be regularly reviewed and updated in reaction to feedback and suggestions from the professional user community, including specialists
 - continuously evolve to reflect best practice
- The collection of instructions and data electronically:
 - allows the changing and updating of Wills which should be at a substantially reduced cost to the client
 - does away with codicils
 - enables users to search for particular elements contained in any previously produced Will
- Software systems can provide a full and holistic service to clients including the further service by producing:
 - powers of attorney
 - IV trusts
 - expression of wishes
 - notice of severance of joint tenancy
 - asset collection reports
- DPL maintains that when using software systems, Will-writers expand their knowledge and have a greater understanding of practice by their familiarisation with the:
 - interactive questionnaire
 - system help notes
 - commentary
- There is undoubtedly a need to make practitioners aware of the existence of systems and this should form an integral part of training and education.