

GREAT EXPECTATIONS

In the end the finale was something of a disappointment.

Fifteen years after my appointment as Executor for the administration of what has felt like a modern-day version of Jarndyce & Jarndyce (the long-running legal dispute in Dickens' Bleak House), we sat in splendid isolation on a Zoom conference.

We listened to learned gentlemen debate in hushed and terribly polite tones the facts, and conclude that our suggestions for a Variation Order to the Will were acceptable and that having got all 12 adult beneficiaries to agree (plus agreement on behalf of minor and even unborn beneficiaries), the Will Trust could be formed.

July 2005 until October 2020. Let that time period settle in your mind. Contemplate your expected legal fees – choose the higher number in your mind, multiply it by 15, throw in four barristers and a judge for good measure. Then add the dreaded land agent and three sets of accountants. Get your inheritance planning right and watertight now to avoid the above.

If you have been reading my articles over the past 15 years, you will know this theme. The battle to conclude matters for a family with a thin, badly drafted Will missing a crucial paragraph has become something of an obsession.

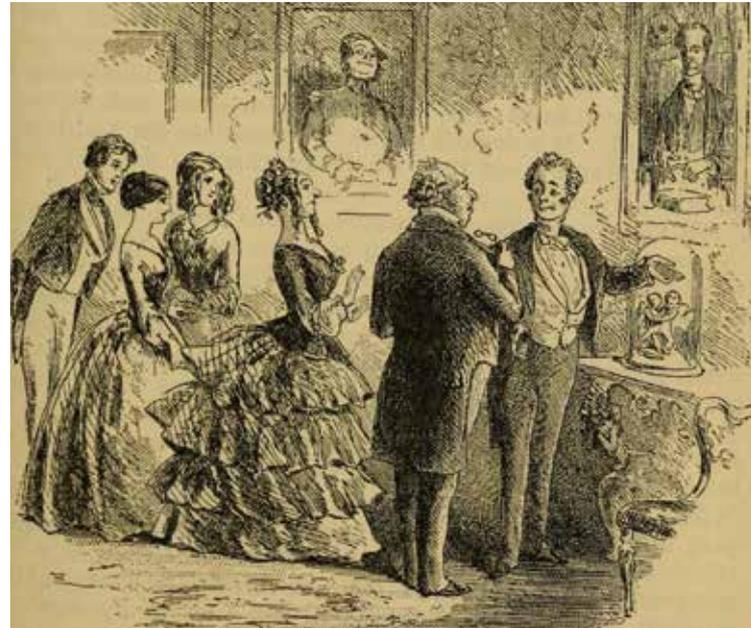
The lesson is a simple one. Do not expect your conveyancing solicitor (with respect to all conveyancing solicitors) to have the required experience or breadth of knowledge to write a sufficiently strong Will to cope with the modern multifaceted estate, your family and the ever-changing legal system.

The starting point is a simple one. Be very, very clear about what you would like to happen and how you would like it to happen. Then make sure that your solicitor and accountant understand what you are trying to achieve and get them to confirm in writing that your plans are deliverable after your death and explain the consequences of delivery legally and as far as the taxman is concerned.

Do you want to give half away before you start? Some estate inheritance plans are so flawed that you may as well give the lawyers a cheque for a million and sell the farm now, sending the taxman a cheque for 40% while you are at it.

Incidentally, the advice and signals are that whatever colour government comes next, inheritance planning is only going to get harder, with some commentators predicting the 'trading test' to qualify for Business Property Relief from Inheritance Tax moving from 50% to 80% - a challenge that needs facing now rather than from your death bed.

As 2020 slips by, the new Will Trustees on the business I'm involved with are moving quickly to reposition the estate as far as IHT is concerned and make the most of a set of assets that, while actively employed, have not been driven. Where do you drive an estate with no agreed plan? Income? Capital? Income and capital? Build up? Dispose and distribute? There is now an interesting and challenging opportunity to make an estate work for the family



long into the future. Particularly for this one, which begins to leave behind that lingering feeling that everything is in mothballs until the lawyers finally agree.

As an aside, don't expect the accountant or lawyer to give you the solution in isolation. They know the law and are brilliant at what they do. They do not, however, know your business or indeed your family. They are there to help deliver the plan, not write it.

Resting on the gatepost with your eye on the horizon, remember the inflexibility you felt when you were first given your turn to assume control. Try not to inflict the same inflexibility on your beneficiaries. The only constant is change, and the only certainty is that your descendants will do it differently in a different world.

In 2020 we have seen forward-thinking farmers and landowners evolve their estates quickly and carefully, attempting to future proof. There are many unknowns, but dealing with some of the certainties protects your family by providing clarity and a road map to follow when they will be battling not only with business challenges but also with grief. You will know already that grief does not bring clarity. If you achieve that and avoid chaos in your wake, you can rest easy.

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