



EVERSOL'S weekly law

Contributed by Rebecca Greenland

A Helping Hand?

People often approach solicitors seeking to sort out the affairs of their parents or children. It is quite normal for people to expect that their family members will appreciate the assistance and, what's more, that it would go without question that they would have the best interests of their loved-ones at heart.

As solicitors, the first question we must ask when a client enters our office is "who is the client?". If you are asking us to make a Will for Dad or draw up a contract for Mum, and you have no legal right to do so (such as under a Power of Attorney), then it is Mum/Dad who is the client - not you. This means that all instructions must be verified by Mum or Dad.

Seems simple, doesn't it? Mum/Dad is client, so they call the shots. But in many cases the reasons for son/daughter approaching their solicitor is because Mum/Dad no longer has the capacity to make the necessary decisions.

This places the solicitor in a position where we are caught between ensuring the interests of the client (Mum/Dad) are protected and having to advise son/daughter that we are unable to take instructions from them. This is because we must ensure that our clients understand our advice and freely and voluntarily provide us with instructions. If Mum/Dad lacks the capacity to do this, we cannot simply take son or daughter's word for it and plough ahead simply to achieve what son/daughter thinks the client wants or is best for them.

This is not to say that if you have a legal query on behalf of a friend or think that a relative should obtain some advice that you shouldn't attempt to assist them. Rather, you should bear in mind that your role is essentially the same as the solicitor's - providing advice in the best interests of the friend/relative/client.

If you or a friend/relative has a legal enquiry, contact the experienced team at Everingham Solomons where *Helping You is Our Business*.



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