

# Larke

Protecting Your Will.

Larke v Nugus Report prepared by Olivia Anderson

Relating to the Will of Richard Roe

Executed on 21 November 2019

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# Section 1

## A. Essential information

- i) This statement is produced by Olivia Anderson of Postremus Limited of 46 Tower Street, Harrogate, HG1 1HS following the preparation and execution of the Last Will and Testament of Richard Roe of Blackacre Estate , Darlington , DL1 1AA (“Richard”) on 21 November 2019 (“Richard's Will”). It is made with the express intention of confirming the arrangements and circumstances in which Richard’s Will was prepared and executed.
- ii) This statement is to be retained with Richard’s Will as a contemporaneous statement of the circumstances of the execution of Richard’s Will.
- iii) I can confirm that I have been preparing wills since 2016 and have the following qualifications - Qualified Solicitor.

## B. Nature of initial contact with Richard

- i) This was the firm's first interaction with Richard.
- ii) Richard was introduced to the firm by a direct approach

## C. Initial instructions

- i) Initial instructions were taken from Richard on 20 November 2019
- ii) Initial instructions were taken via Face to Face Meeting and any additional documents are enclosed in Appendix A.
- iii) Margaret Roe, a family member who is a named beneficiary of the will, was also present at the initial instruction meeting.

#### **D. Client's testamentary capacity**

- i) Richard was able to hear properly.
- ii) Richard was able to see properly.
- iii) Richard was able to talk properly.
- iv) Richard's ability to understand the will was therefore not inhibited in any way.
- v) At the time of initial instruction (20 November 2019), Richard does not have medical history that could affect mental capacity.
- vi) I was satisfied that Richard had sufficient mental capacity to create a will, as defined in *Banks v Goodfellow*.

#### **E. Undue influence or fraudulent calumny?**

- i) In the opinion of Olivia Anderson, Richard was not being coerced or influenced by any other individual at the time of instruction.

#### **F. Richard's family & reasons for testamentary gifting in the Will**

- i) At the time of initial instruction, the total value of Richard's estate was estimated at £2,000,000.00
- ii) Margaret Roe (Spouse)
  - a. From interactions with Richard Roe, I believe the relationship between Richard Roe and Margaret Roe to be: "Happily Married for over 30 years".
  - b. The last time Richard had seen Margaret Roe at the time of initial instruction was 18 November 2019
  - c. Margaret Roe is a named beneficiary in Richard's Will.
  - d. Richard believed that this individual would be happy with the amount awarded to them and gave the following reason for this:

“Richard and Margaret have discussed how much will be awarded between them.” .

- iii) Richard does not have any cohabitees other than their immediate family members at the time of initial instruction.
- iv) Catherine Roe (Ex-Spouse)
  - a. Richard does not have a financial consent order with Catherine Roe to prevent claims on death.
  - b. Catherine Roe had not remarried at the time of initial instruction.
  - c. Richard was paying maintenance to Catherine Roe at the time of initial instruction. This maintenance was valued at £400.00 per month by Richard Roe.
  - d. Catherine Roe is not a named beneficiary in Richard's Will.
  - e. Richard gave the following reason for this: “Richard Roe is not on good terms with Catherine Roe. He intends to stop paying monthly maintenance. ”.
  - f. I informed Richard Roe of Catherine Roe ’s right to claim continued maintenance in accordance with the Inheritance (Provision for Family and Dependents) Act 1975. In consideration of this, Richard Roe believed the shares awarded to Catherine Roe amounted to reasonable financial provision under the Inheritance Act 1975.
- v) Andrew Roe (Child)
  - a. From interactions with Richard Roe, I believe the relationship between Richard Roe and Andrew Roe to be: “Close father-son bond. ”.
  - b. The last time Richard had seen Andrew Roe at the time of initial instruction was 20 November 2019.
  - c. Andrew Roe is a named beneficiary in Richard's Will.
  - d. Richard believed that this individual would be happy with the amount awarded to them and gave the following reason for this: “Andrew Roe

will receive enough to be able to fund his start-up idea.”.

vi) Alice Roe (Child)

- a. From interactions with Richard Roe, I believe the relationship between Richard Roe and Alice Roe to be: “Fraught relationship due to financial disagreements.”.
- b. The last time Richard had seen Alice Roe at the time of initial instruction was 04 January 2016.
- c. Alice Roe is not a named beneficiary in Richard's Will.
- d. Richard gave the following reason for this: “Richard believes that Alice no longer deserves financial help in life.”.
- e. The shares awarded to Richard’s children were not equal. The following warning message was therefore recited to Richard: “From our research, the majority of claims come as a result of perceived unfairness, the most common of this being unequal share of assets between children. To avoid any potential challenges to the Will in the future, we recommend giving an equal share to each child.”

vii) Richard does not have any financial dependants at the time of initial instruction.

viii) John Doe is named as a beneficiary of Richard’s Will.

- a. Richard described the nature of their relationship as *Life long friend and business partner.*
- b. The estimated share of Richard’s Estate awarded to John Doe is 5 %.
- c. Richard gave the following reason for awarding John Doe this amount: “He has supported Richard Roe emotionally and financially throughout life. ”

ix) Richard understood his/her obligations to these dependants when asked.

## **G. Richard's understanding**

- i) Richard understood the outcome of the meeting was to create a will which would impact the management of his/her estate on death.
- ii) I explained the rules of intestacy and their application to Richard Roe's estate.
- iii) Richard Roe understood the rules of intestacy and proceeded to create a will.
- iv) Margaret Roe (Executor 1) was chosen by Richard Roe to execute the will for the following reason: *She is Richard Roe's trustworthy wife.*
- v) Richard is not creating a trust.

## **H. Previous wills**

- i) This is not Richard's first will.
- ii) The most recent will was executed on 13 January 1992. A copy of this will is enclosed in Appendix C.
- iii) It was Richard Roe's intention that this Will revokes all previous wills.
- iv) In comparison to the previous will, there were changes which affect the beneficiaries.

The reason given by Richard Roe for the change in beneficiary status of Catherine Roe was as follows: *The marriage broke down in 2000 and relations have been fraught ever since..*

The reason given by Richard Roe for the change in beneficiary status of Alice Roe was as follows: *Alice has received enough financial support in life.*

## **I. Preparation of the will**

- i) All instruction for the Will came from Richard until the final Will was completed.

## **J. Will execution**

- i) The Will was executed on 21 November 2019.
- ii) The Execution took place during a meeting in person, where those present were Richard and the attesting witnesses, Margaret Roe and Andrew Roe and John Doe.
- iii) There was no change to Richard's physical state since 20 November 2019.
- iv) There was no change to Richard's mental state since 20 November 2019.
- v) There was no sign of undue influence or fraudulent calumny upon Richard since instruction on 20 November 2019.
- vi) Richard has read through and understood every clause of the Will.
- vii) No clauses of the final draft were changed during the execution meeting.
- viii) I was satisfied that the Will fully carries out Richard's wishes.

## **K. After execution**

- i) The original Will and any letter of wishes were both stored by Postremus Limited and sent back to Richard Roe.
- ii) The Will has not been registered with Certainty - the national will register endorsed by the Law society.



**Confirmation**

**Report Prepared and Approved By Olivia Anderson on 21 November 2019**

I confirm that the contents of this report are true to the best of my knowledge and belief and that I have no beneficial interest in the estate of Richard Roe.

**Date signed:**

**21 November 2019**

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## **Section 2 - Appendices**

## **Appendix A - Initial instruction notes**

## **Appendix B - Explanatory notes of final unexecuted will**

**Appendix C - Copy of Richard Roe's previously executed  
will**

## **Appendix D – Mental Capacity Report for Richard Roe**