

## Law Society practice note on gifts to will drafters and conflicts of interest

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**CATEGORY:**  
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The Law Society issued a new practice note entitled 'Preparing a will when your client is leaving a gift for you, your family or colleagues' in October 2014. Occasionally charities do have to consider the appropriate response where they are residuary beneficiaries but the drafter of the will takes a significant benefit.

Indicative Behaviour 1.9 in the Solicitors Regulation Authority Code of Conduct suggests that will drafters should consider refusing to act if a client, without taking independent legal advice, proposes to make a gift which gives a significant amount to:

- the will drafter;
- a member of the will drafter's family;
- a partner in the firm; or
- a member or employee of the will drafter's firm.

Guidance on how to decide if an amount is 'significant' is provided in the Law Society note:

- A gift of more than £500 or
- Anything worth more than 1% of the client's current estimated net estate; and
- Anything that might become more valuable at some point, especially after the death of the client, and anything that provides a benefit to an individual which is more valuable than their relationship to the deceased reasonably justifies.

Point 4.3 of the note states that when taking will instruction solicitors should ask:

- Do any of the people to whom the client wishes to leave property work for the firm?
- Are any of the people to whom the client wishes to leave property related to, married to or have a close connection with people who work for the firm?

NB: Law Society practice notes represent the Law Society's view of good practice in a particular area. They are not intended to be the only standard of good practice that solicitors can follow. Solicitors are not required to follow them, but doing so will make it easier to account to oversight bodies for their actions.

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