

Three for all

Richard Roberts, the new chair of the Law Society's wills and equity committee, outlines some of his guiding principles which may shape the work of the committee over the coming three years



I first started work in a solicitor's office as a temporary office junior in 1976. At that time, the firm I worked for still had manual typewriters, the managing clerk still press-copied his letters into an old-fashioned letter book, and the firm stored every old file going back over 150 years. Although those qualities may now seem Dickensian, the values and beliefs of the partners in that firm at that time were both modern and forward-thinking. They firmly believed in handing on their skills and knowledge by mentoring young law students, not only in legal practice and procedure, but also in a wide range of life skills.

Such a commitment remains essential to the health of the profession. Education is paramount. The more we rely on modern technology and curtail our use of the English language with text-speak, spell-check and an almost slavish adherence to 'cut and paste' drafting, the more vital it is that those who are involved in will-making and estate administration have a firm foundation in basic legal education, grammar and clear writing.

The options available to law students wanting to study will-making are minimal, so we must spend time with our trainees and newly qualified staff to expand their knowledge. The fact that wills only become relevant after the death of the testator – and, therefore, too late to ask them for clarification – necessitates a high level of technical skill in preparing documents, following a detailed, inquisitorial discussion with the testator.

The recent case of *RSPCA v Sharp* reminds us all that there must be no ambiguity or uncertainty in our documents; that can mean teasing out all sorts of additional information from our clients. Back in 1976, we used to read documents to each other to check that they had been prepared properly and made sense: we all need to remember that the computer can and does make mistakes, because the operator is human.

Only with good basic training, education and mentoring can we expect the standard of our professional work to increase, claims against us fall, and our reputation be enhanced so we are always seen to be better than our competitors.

As a seasoned high-street practitioner, I am also extremely concerned that levels of service, care and compassion are raised, so private client practitioners can compete with commoditised providers. I am passionately interested in how modern technology can be harnessed safely, with minimal risk to firms, to enable us to deliver a professional service to our clients at a competitive cost. Modern technology changes at such a rapid pace that solicitors must encompass a whole new raft of retainer letters to deliver a proper service, but they must not forget the basic principles of the Wills Act 1837 in determining capacity, the absence of fraud and undue influence, and the

actual knowledge and approval of the will by the testator.

Estate administration is not immune, either, from modern technology: changes in the probate rules may well lead to more personal applications, with a knock-on effect for our business models. We need to address how we compete. The whole scope of one's digital footprint and how to deal with one's virtual presence also needs to be more widely understood.

The increase in both longevity and health issues also means that our compassion and empathy skills must be honed to even higher levels, and we need to be more aware of elder abuse and elder neglect. Abuse, of course, need not just be financial abuse.

I am blessed with a committee with huge intellectual capital, which is at the disposal of the Law Society and its members. Members freely give of their time and immense skill, for no financial gain, and I believe the profession is better as a result. The creation and updating of practice notes on subjects as diverse as file retention, bankrupt beneficiaries, and the use of lasting powers of attorney support the greater education of the profession and consumer protection.

But this is not all we do: we must devote time and thought to the Law Society's responses to consultations, as these may influence future law and practice. This rather unsung area of our work should not be overlooked.

Will-writing and estate administration as regulated activities are very substantial political issues, and I, and my fellow committee members, have been particularly keen to see that evidence is laid before the regulator, and continue to press strongly for these activities to be regulated.

We must not forget that our committee cannot work in isolation, and I certainly wish to strengthen the links with the organisational stakeholders with whom we work regularly, such as the Office of the Public Guardian, the British Medical Association and HM Revenue & Customs. I also want to encourage a great dialogue within the profession, and listen to, and respect, the potentially differing views of organisations such as the Society of Trust and Estate Practitioners, the Association of Contentious Trust and Probate Specialists and Solicitors for the Elderly. And, of course, we will continue to rely on the practical expertise of the Private Client Section committee and its members. ■

Richard Roberts is a senior director of Gedye & Sons Solicitors, a member of the Private Client Section executive committee, and new chair of the Law Society's wills and equity committee.