

Carers making claims on clients' wills prompts call for scrutiny of estate law

Renee Viellaris, The Sunday Mail (Qld)

April 14, 2013 12:00am

SOME carers are ripping off the very people they are supposed to look after by demanding money be left to them in wills, an estate lawyer has revealed.

One of Queensland's leading estate lawyers, John de Groot, urged debate about whether existing laws were good enough to protect the ageing population.

Mr de Groot said he had seen several cases where carers argued they had been a de facto of the deceased - to the surprise of families - and should receive some of their estate.

"It's become more of a prevalent issue because of the ageing population," Mr de Groot told *The Sunday Mail*.

"What we are finding is that there are some cases where carers say they were in relationships with the deceased.

"Wills are getting challenged in favour of the carer by the testator, who are completely wiping family either in full or by a generous amount."

He said some carers had also blackmailed their elderly or disabled clients, who did not want to leave their houses and go to nursing homes.

"They basically say, 'you better leave me something to make it worth my while (to stay)'," he said.

Mr de Groot said the community needed to become extra vigilant to protect its most vulnerable.

"As a community we have to look at it and ask, 'does the existing law suit?' "

The Courier-Mail yesterday revealed more family members were making claims on

estates, and were willing to air the family's private business and secrets to bolster their chances in court.

However, there also have been cases where carers were bequeathed a large piece of an estate.

Barrister and accredited specialist in estate law Caite Brewer said there were various ways to challenge the validity of a will.

The most common was to argue that the testator lacked the capacity at the time they made the will because they had advanced dementia or due to the effect of medication, Ms Brewer said.

It can also be argued that a testator was unduly influenced by someone else to make their will, or they did not know and approve the will's contents.

In Queensland, a spouse, de facto, child, adult, step children and some financial dependents have a right to make a claim for family provision on an estate.

In 2004, the Law Reform Commission recommended the laws be changed to limit the eligibility of adult children who made claims on their parents' estate. Children and dependent adult children would still be eligible under the recommendation.

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