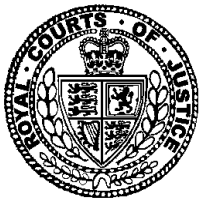

Neutral Citation Number: [2021] EWHC 757 (Ch)

Case No: PT-2019-LDS-000118

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS IN LEEDS
PROPERTY TRUSTS AND PROBATE LIST (ChD)

IN THE ESTATE OF PROFESSOR ROBERT WHALLEY DECEASED

Leeds Combined Court Centre,
1 Oxford Row, Leeds, LS1 3BG

Date: 26 March 2021

Before :

HH JUDGE DAVIS-WHITE QC
(SITTING AS A JUDGE OF THE HIGH COURT)

- -

Between :

THE BRITISH UNIVERSITY IN DUBAI

Claimant

- and –

KAMBIZ EBRAHIMI
(OTHERWISE KNOWN AS PROFESSOR SEYED MORTEZA EBRAHIMI-KHOMAMI, MORTEZA EBRAHIMI-KHOMAMI AND MORTEZA EBRAHIMI)
(in his capacity as purported executor of the estate of Professor Robert Whalley deceased and in his personal capacity)

Defendant

- -
- -

Mr Alistair Webster QC and Miss Julia Beer (instructed by **Thornton Jones Solicitors**) **for the Claimant**
Mr Toby Bishop (instructed by **Irwin Mitchell LLP**) for the **Defendant**

Hearing dates: 15 (reading), 16-19, 24 March 2021
The trial was conducted remotely through HMCTS Cloud Video Platform ("CVP")

- -

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

.....

HH JUDGE DAVIS-WHITE QC (SITTING AS A JUDGE OF THE HIGH COURT)

Covid-19 Protocol: This judgment was handed down by the judge remotely by circulation to the parties' representatives by email and release to Bailii. The time and date for hand-down is deemed to be 2:00pm on 26 March 2021

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HH Judge Davis-White QC :

Introduction

1. The issue before me is a simple one of fact: did two individuals validly attest (or for present purposes witness) the will of the late Professor Robert Whalley dated 3 May 2018 (the "2018 Will") on the 3 May 2018 in accordance with section 9 of the Wills Act ? If the answer to that question is in the affirmative, then the relevant will is valid. If they did not, then a further issue will arise, namely, whether an earlier will of Professor Whalley dated 17 September 2012 (the "2012 Will") is valid. As presented to me, that issue also turns on whether the 2012 Will has been validly executed, but in accordance with section 1 of the Wills Act 1963. It was agreed (and ordered at a pre-trial review) that this issue, if it arose, should be dealt with at a separate hearing.

2. As I shall explain, I have found that the 2018 Will was not validly attested and that probate should be revoked. On 24 March 2021 I made an order to that effect (among other things). I also gave directions for the further hearing of the remaining issue and appointed an administrator pending suit over Professor Whalley's estate pursuant to s117 Senior Courts Act 1981. This judgment sets out my reasons for my determination in relation to the validity of the 2018 Will and the revocation of the grant of probate in relation to it.

3. Professor Whalley (also the "deceased" or the "testator") died on 4 July 2018 aged 80. Probate of the 2018 Will was granted on 7 February 2019 to the defendant, Professor Ebrahimi, as executor. For the purposes of probate, the gross value of Professor Whalley's estate was certified at £3,191,124 and its net value as £3,186,314. Also, on 7 February 2019, the claimant sought to lodge a caveat to prevent the grant of probate but it was too late.

4. The estate is currently considered by the defendant's solicitors, who, as I understand it, have assisted in its administration, to have a value of £1.7 million and possibly £1.9 million.

5. The 2018 Will leaves the estate to Professor Ebrahimi and his wife as to 50% each. The 2012 Will leaves 90% of the estate to the claimant and 5% each to Professor Ebrahimi and another academic.

6. The 2018 Will is a holographic one page will. It has the curiosity that its execution by the testator is apparently witnessed (there is no formal attestation clause) by two witnesses (the "Ilkley Witnesses") in Ilkley, West Yorkshire, where the testator then lived, on 4 May 2018. This was the day after 3 May 2018 when it was purportedly executed by the testator. It is common ground, and the evidence from those two witnesses is, that they witnessed the testator's signature separately on 4 May 2018, at a time when they were not together as witnesses. Accordingly, they did not validly attest the will in accordance with section 9 of the Wills Act 1837. That provision requires the two witnesses to be present together when the testator either signs the will or acknowledges his signature in their presence.

7. However, on the reverse side of the one-page 2018 Will are two further names and addresses and signatures each with the date of 3 May 2018.

8. The defendant's case was that these two signatures were those of two professional colleagues of his from Loughborough University, for convenience referred to before me, and by me in this judgment, as the "Loughborough Witnesses". It was said that the defendant, and separately the Loughborough Witnesses, had travelled to Ilkley on the afternoon/evening of 3 May 2018. The defendant frequently visited Professor Whalley to look after him and was due to do so in the afternoon of that day, and then to stay overnight. The Loughborough Witnesses needed academic assistance from Professor Whalley and it was agreed that they would also visit him at his home that evening. Whilst at Professor Whalley's house, and at a time when the defendant had left the room and was not present, it was said that Professor Whalley had got out his 2018 Will, signed it and asked each of the Loughborough Witnesses to witness and sign it, which they did. They did not know the document was a will. Thereafter the Loughborough Witnesses completed their 6 hour round journey and returned home to Loughborough, arriving late at night, or in the very early hours of the following day. The reason put forward why Professor Whalley on 4 May 2018 then obtained two more signatures witnessing his signature was because he had a concern that the Loughborough Witnesses' attestation was, or may have been, invalid as they were not UK nationals but, in one case, a Greek national and, in the other case, a Cypriot national.

9. The claimant's case is that the 2018 Will is invalid because the deceased did not make his signature in the presence of two or more witnesses at the same time nor acknowledge his signature in the presence of two or more witnesses at the same time. The signatures of the Loughborough Witnesses are said to have been added at a later date to represent that those "witnesses" had witnessed the will, validly, on 3 May 2018 when that was not the case. In effect, a conspiracy was alleged between the Loughborough Witnesses and Professor Ebrahimi.

10. The issue that I have to decide is made considerably easier by what took place when the last witness for the defendant was called to give evidence.

11. The last witness for the defendant who gave evidence before me was Dr Antonios Pezouvanis, one of the Loughborough Witnesses. On 19 March 2020, he was taken to the affidavit of due execution that he had made on 4 October 2018. That affidavit confirmed that he and the other Loughborough Witness, Dr Panagiotis Athanasiou, were present at Professor Whalley's home on the evening of 3 May 2018 and that they had each witnessed the 2018 Will in the manner that I have explained. That affidavit was not made in the current proceedings but was made with a view to obtaining probate, which, as I have said, was then obtained. Once called to give evidence, and having identified the copy in the bundle as being a copy of his affidavit and the copy signature as being his, Dr Pezouvanis was asked, in chief, if the contents of his affidavit were true. His answer was a short one: "No". When asked how he would like to correct his affidavit he simply replied: "There was no meeting on 3 May 2018". At that point, Counsel for the defendant asked for time (subsequently extended) to take instructions.

12. Having had time to take instructions, Counsel for the defendant confirmed that the defendant was not pursuing his defence to the claimant's claim that the 2012 Will was valid and the 2018 Will was invalid. He also sought permission to withdraw his counterclaim, seeking a pronouncement in favour of the 2018 Will in solemn form. He did not resist an order for indemnity costs against him in his personal capacity, which I made, together with an adjournment of the issue of a payment on account of such costs.

He also did not resist an order for payment out of sums paid into court by the claimant by way of security for costs. Again, I made that order. The claimant invited me to deliver judgment in order that I could make substantive orders on the claim, including a claim for an account from Professor Ebrahimi, which order I did not understand Professor Ebrahimi to be resisting.

13. I was later provided with a draft agreed order which, among other things, permitted the withdrawal of the counterclaim but I decided that the issue of whether there should be permission to discontinue or a simple order of dismissal should await this judgment.

14. The various concessions made by Professor Ebrahimi through his Counsel were made in circumstances where Dr Pezouvanis was part way through his evidence in chief and where, apart from some directions about not discussing the case or his evidence and making arrangements to adjourn or resume the hearing, he had been kept in the "waiting room" of the remote video platform being used, HMCTS's cloud video platform, both during the adjournments but also while discussions took place between the court and counsel. Following the points being reached as I have set out above, Counsel for the claimant sought permission to cross-examine Dr Pezouvanis with a view to clarifying how, when and why he had come to give the original evidence that he had given regarding the alleged meeting on 3 May 2018. I refused to permit such cross-examination in that Dr Pezouvanis' oral evidence was now clear, he would clearly have had to have been given a warning about the privilege against self-incrimination and would have been unlikely to answer further questions but, most importantly, the how, when and why was either not relevant or not needed for any issue left for me to resolve.

15. Dr Pezouvanis' oral evidence was clear and unequivocal. There was no reason for him to change his evidence to say what he did unless it was the truth. So compelling was his evidence that, as described, it resulted in the defendant abandoning his case. Nevertheless, as I have been asked to give a judgment, I must go on and assess the evidence in the case in the round.

16. I should add that there was a further remote hearing on 24 March 2021, as I have mentioned earlier. At that hearing certain issues were ventilated about what this judgment should contain, as well as other matters including those I have referred to earlier. This judgment therefore provides my reasons for concluding that the 2018 Will is invalid and that probate should be revoked.

Legal representation

17. The claimant was represented by Mr Alistair Webster QC leading Miss Julia Beer. The defendant was represented by Mr Bishop. I am grateful to all counsel for their assistance in the case. I must also express my gratitude to the claimant's solicitors, Thornton Jones solicitors, for the impeccable manner in which the trial bundles were prepared (both in hard copy and electronically) and to Irwin Mitchell LLP, solicitors for the defendant, who enabled the trial to proceed totally remotely by being prepared to attend on Professor Ebrahimi and Dr Pezouvanis when those two gentlemen were giving their evidence remotely from their respective homes.

The form of hearing

18. The trial was conducted wholly remotely. This was initially a matter that I had to rule upon, as it was not agreed, some days before the trial. Dr Athanasiou is currently in Cyprus. Indeed, his wife gave birth during the course of the trial. Realistically it was accepted that he could not or should not travel to the UK to give evidence in person during the current pandemic. It was also agreed that most of the other witnesses should give their oral evidence remotely. However, the claimant was anxious that, given in effect the allegations of fraud regarding the evidence of 3 May 2018, Professor Ebrahimi and Dr Pezouvanis should travel from Loughborough and give evidence in the court room. I ruled in favour of a wholly remote trial at an earlier stage of the proceedings. I gave my reasons for doing so at the time. Nothing I now say should be taken as qualifying my earlier reasons. However, one benefit of a wholly remote trial was that it enabled remote access throughout the trial to be given to the person in Dubai who was giving instructions on behalf of the claimant, being Professor Alshamsi, and enabled Professor A-Ameer to be permitted to access the trial throughout as witness for the claimant, and not simply a remote connection for each of them whilst they were giving evidence (see generally *Huber v X-Yachts (GB) Ltd* [2020] EWHC 3082 (TCC);[2020] 11 WLUK 184). The other main benefit was, of course, reducing footfall through the court and general dangers from Covid-19 Virus, inherent in travel and the need for witnesses and others to travel to Leeds and stay overnight. In terms of disadvantages, whilst it is true that a remote hearing places a barrier between the participants that is not present when everyone is present in court, such barrier should not be overemphasised. As the court has said in many cases such as *R (Dutta) v General Medical Council* [2020] EWHC 1974 (Admin) and *R (on the application of SS (Sri Lanka) v Secretary of State for the Home Department* [2018] EWCA Civ 1391, demeanour of a witness is an uncertain guide to the reliability of evidence, far more important is the substance of the evidence given, its internal consistency and its consistency with contemporaneous documents and the inherent probabilities. Further, as Lieven J identified in *A Local Authority v Mother* [2020] EWHC 1086 (Fam), there is no evidence as to whether the solemnity of being in a court room rather than giving evidence remotely is more conducive to the telling of the truth or the giving of better evidence and it may depend upon the individual in any event. In this case, of course, the fact that the evidence was given remotely was not such as to prevent Dr Pezouvanis feeling that he had to tell the truth orally. Indeed, it is possible, though I speculate, that it was easier for him to admit the truth in an environment where he was not being faced with the defendant in the same courtroom. In any event, I did not find that the hearing being remote rather than face to face operated in a manner that made me consider that a face to face hearing would have been more helpful in me reaching my assessment of the evidence and the conclusions that I have reached.

The parties and others

19. Professor Whalley had had a distinguished career in the Royal Navy, reaching the rank of Commander before taking up an academic career. He was very proud of his naval career. For many years he was head of the Mechanical Engineering Department at Bradford University.

20. Sadly, Professor Whalley's son died in a motor bike accident in Ilkley in about 2002. A few years later his wife died from early on-set dementia. In his latter years, Professor Whalley appeared to be bereft of close family or friends. A neighbour identified that

he seemed to have two friends, one of whom was Professor Ebrahimi (and, I would add, Professor Ebrahimi's family).

21. The defendant, Professor Ebrahimi, knew Professor Whalley for many years. He first worked as Professor Whalley's research assistant at Bradford University from about January 1995. That was Professor Ebrahimi's first full-time academic post, having completed his PhD at Cardiff University. Professor Whalley was then Head of the Mechanical Engineering Department.

22. Professor Whalley retired from Bradford University in about 2005, when he was about 67 years old. In about October 2006, he took up a position with the claimant, the British University in Dubai (the "claimant" or "BUID"), as Professor of Engineering at the Faculty of Engineering & IT, apparently with some encouragement and assistance from Professor Ebrahimi.

23. Whilst at BUID, Professor Whalley worked closely with Professor A-Ameer, who is a 5% beneficiary under the 2012 Will. The defendant is the beneficiary of the remaining 5% of the estate under that Will. However, under the 2012 Will, BUID is named as a beneficiary of 90% of Professor Whalley's estate. The 2012 Will requires this money to be used, in effect, to set up and endow a chair in the academic area that was central to Professor Whalley's academic life. The defendant put the claimant to proof that, in the event that it has not been subsequently revoked, the 2012 Will is validly made.

24. Whilst at BUID, in about September 2012, Professor Whalley handed a sealed envelope to Professor Alshamsi which he said contained his will. He asked the Professor not to open the envelope until told to by solicitors. In fact, it appears that the envelope probably held a copy of the 2012 Will. The original seems to have been lodged with solicitors, Wrigleys Solicitors in Leeds. In about January 2013, Professor Alshamsi was informed by Professor Whalley's financial adviser, PA Asset Management that BUID was the beneficiary under the 2012 Will. Professor Alshamsi is the Vice Chancellor of BUID.

25. During his time at BUID, Professor Whalley would usually come back to the UK, in later years, for a period in the summer. He kept in touch with Professor Ebrahimi on such visits and also while he was away in Dubai. In November 2015, for example, he informed BUID that he had commenced research work with Professor Ebrahimi on vehicle power and transmission systems.

26. In about October 2016, Professor Whalley was diagnosed with oral cancer. He was eventually treated in Dubai on his return there in about January 2017. According to his medical notes, he had "fallen out" with the oncologists in the UK. In the Summer of 2017, the treatment was complete and he was given the "all clear". However, he resigned his post at BUID in September 2017 and returned to the UK.

27. In October 2017, Professor Whalley was appointed Visiting Professor in Dynamics and Control in the Wolfson School of Mechanical, Electrical and Manufacturing Engineering at Loughborough University for an initial 3 year period commencing in November 2017. This was a position he had been interested in taking up for some time. In an email to Professor Ebrahimi dated 26 January 2016 he had asked: "*When am I to become a Visiting Prof. at Loughborough?*"

28. Whilst at the University of Loughborough, he worked on a number of projects. He was a visiting member of the APG Team which was led by Professor Ebrahimi and two other members of which were Dr Pezouvanis and Dr Athanasiou. Dr Athanasiou is the other Loughborough Witness.

29. Dr Pezouvanis had been known to Professor Whalley while he was studying for his BEng in mechanical and automotive engineering at the University of Bradford and after that when Professor Whalley was his associate supervisor for his PhD. From 2009 to 2014 he worked in the automotive laboratory under Professor Ebrahimi's management. In December 2014, Professor Whalley provided him with a reference for his application for a position at Loughborough University.

30. By April 2018, Professor Whalley had developed a pain in his lower jaw and was unable to open his mouth fully. The doctors attending him were concerned that this was a recurrence of the earlier tumour, sadly that proved to be the case. His health thereafter deteriorated quite rapidly. The medical notes contain repeated concerns that he was living on his own, increasingly unable to cope, having difficulty in eating, losing weight and refusing treatment. At some point in 2018 he was looking to buy a house in Loughborough but by June was extremely ill. It was agreed that he would go and stay with the Ebrahimis in Loughborough. When he arrived, he then moved to a hospice and died there not long afterwards.

31. I heard a certain amount about Professor Whalley from a number of witnesses. He was clearly a very solitary and private person who, at least after the deaths of his son and his wife, lived for his work and little else. One facet of his character, picked up to some extent by his neighbour and by Ms Duchart, a solicitor who had some dealings with him over his 2012 Will, but most clearly expressed by Professor Rahnejat, a fellow academic, was that he was strongly independent and strong-willed. As Professor Rahnejat put it in his witness statement, Professor Whalley was "*quite headstrong and thought he knew about everything. If he formed a view it was difficult to shake him from it, however wrong he might be, in my experience. He had all kinds of ideas about how things worked*." Professor Rahnejat expanded upon this in oral evidence and explained that this attitude extended beyond academic matters, in which Professor Whalley was an expert, to matters of every-day life. I accept this evidence. Two examples that I identified from the case before me were (1) Professor Whalley's insistence to Professor Ebrahimi, in the course of a recorded conversation on 14 June 2018, that the 2012 Will was invalid because "It is illegal to donate more than a small percentage to anyone overseas" with the result that the claimant would not have got anything under the 2012 Will anyway, even if Professor Whalley had not, as he thought he had, revoked it by the 2018 Will and (2) the attendance note of the meeting between Ms Duchart and Mr McIvor of Wrigleys with Professor Ebrahimi on 10 July 2018 which records at paragraph 17 as follows:

> "*17. ASD pointed out on a number of occasions during the meeting that she had notified* [Professor Whalley] *that there were problems with the* [2012] *Will he had drafted himself but he never responded and eventually ASD notified him that she would be closing the file.* [Professor Ebrahimi] *made a comment along the lines of "You know how he was, nobody could tell him anything*".

32. I should also say that I have the firm impression that Professor Whalley could easily take strongly against people and apparently in a manner that might be said, objectively, to be unfair or an overreaction.

33. Thus, the suggestion in evidence from (among others) Professor Alshamsi is that, based on what he was told by Professor Whalley, Professor Whalley made an earlier will than the 2012 Will under which the main or only beneficiary was Manchester University but that he fell out with the Head of the Engineering Department there and that was why he made the 2012 Will largely in favour of BUID. Secondly, his medical notes show that he fell out with the oncology department at Bradford Hospital and this seems to have been at least part of the reason why he refused treatment there in 2016, when diagnosed with cancer. Further, a large motivating factor behind the making of the 2018 Will seems to have been to disinherit BUID and Professor A-Ameer.

34. Professor Whalley had known Professor A-Ameer from about January 1998, in the capacity of supervisor of Professor A-Ameer when the latter was working on his PhD. The two had worked together on a research grant between 2002-2005. Professor A-Ameer had also joined the British University of Dubai, but after Professor Whalley. Whilst at BUID, Professor A-Ameer had worked with Professor Whalley on research and teaching. Professor A-Ameer's contact extended beyond normal academic relations. He assisted Professor Whalley with his emails, would book flights for him and would drive Professor Whalley around in Dubai. He took Professor Whalley to a Bradford hospital in 2016 when Professor Whalley was diagnosed with cancer and was later instrumental in persuading him to undergo treatment. He took Professor Whalley to his hospital appointments in Dubai and arranged for his treatment between February and June 2017. Nevertheless, in a recorded conversation with Professor Ebrahimi on 14 June 2018, Professor Whalley described Professor A-Ameer as causing him stress which he considered contributed to his cancer. He also suggested, "egged on", in my judgment, by Professor Ebrahimi (who at one point refers to Professor A-Ameer as a "bastard") that Professor A-Ameer was "greedy" that he "rows with everybody" and he is "very childish". He was clearly of the view that Professor A-Ameer would not publish material with him, Professor Whalley. All of this appeared to lie behind the decision to disinherit Professor A-Ameer and, possibly, the claimant, though there was also the thought that it was illegal to leave anything other than a small sum to overseas bodies. Where that latter idea had come from is unclear, given in 2012 Professor Whalley had made his home-made will doing exactly that. Although Professor Whalley may not have achieved the publication that he would have liked I do not accept that Professor A-Ameer in any way acted improperly or unfairly and I reject the suggestion of Professor Ebrahimi that the issue was the proposed order of the author's names on publications, rather than the publication or non-publication.

35. Professor Kambiz Ebrahimi is currently Professor of Advanced Propulsion at the Department of Aeronautical and Automotive Engineering, Loughborough University. His research interest is mainly in the systems dynamic and control with applications in powertrain design and testing.

36. He and his wife have known Professor Whalley for many years. They have both taken care of Professor Whalley and looked after him. It is no surprise that Professor Whalley should have sought to make the 2018 Will in the terms that he did. It is also not without relevance that the Loughborough Witnesses are clearly known to Professor Ebrahimi's

wife, who in her written evidence refers to them by their first names. However, she did explain that social events with them tended to be on a University or academic events basis rather than meeting or going out together regularly as friends,

37. It is also clear that Professor Ebrahimi has known the two Loughborough Witnesses for many years. Although he asserts in his second witness statement in these proceedings that he is not the line manager of either nor the direct supervisor of either for the purpose of personal development reviews, Professor Ebrahimi has had a long relationship with each in circumstances where he has been in a position of authority over each of them. Thus, Dr Pezouvanis is a young academic in Professor Ebrahimi's department at Loughborough. Before Loughborough, Professor Ebrahimi first met him as an undergraduate at Bradford and was his PhD supervisor at Bradford. There are a number of academic papers that are authored by (among others) Professor Ebrahimi and Dr Pezouvanis. Dr Panagiotis ("Panos") Athanasiou is another young academic at Loughborough, though I understand he has currently left Loughborough and is working in Cyprus, of which he is a national. Dr Athanasiou was supervised in his PhD by Professor Ebrahimi (among others) and has worked closely with Professor Ebrahimi over the years.

38. In short, I find that the relationship between Professor Ebrahimi and each of the Loughborough Witnesses goes a long way to explaining why they would have agreed to lie about the alleged meeting on 3 May 2018 as they did in their affidavits of due execution and their witness statements in the proceedings before me. It seems to me that both Loughborough Witnesses may well have supported the dishonest case of Professor Ebrahimi in these proceedings (and in taking steps to support his application for probate) at least in part because of a sense of indebtedness to Professor Ebrahimi and because of his long position of authority over them.

39. Although Professor Ebrahimi's wife, Tracey Ann Ebrahimi, is not a party to the proceedings the claimant has sought to bind her to this judgment, having followed the procedure under CPR r19.8A.

The witnesses

40. I heard evidence from the following on behalf of the claimant.

41. Professor Alshamsi gave evidence primarily regarding two matters. First, his knowledge of Professor Whalley during the period the latter was working within the claimant university. Secondly, his failure to respond to correspondence from Professor Whalley, sent on the latter's behalf by Professor Ebrahimi, seeking return of the 2012 Will he had deposited with Professor Alshamsi on the basis that he wanted to make corrections to it. In fact, as I have said, the 2012 Will deposited with Professor Alshamsi appears to have been a copy. Although Professor Alshamsi was cross examined on the latter issue I did not find that it in any way undermined his evidence, which I find to be truthful and accurate, nor did it really assist me on the main issue which was whether the alleged meeting on 3 May 2018, at which the Loughborough Witnesses were said to have witnessed the 2018 Will, took place or not.

42. I also heard from Professor A-Ameer. He dealt primarily with his knowledge of Professor Whalley and expressed surprise that Professor Whalley, a very private person, would invite junior academics to his house to discuss academic matters in the evening.

Again, I did not find his cross-examination undermined my assessment of the truthfulness and accuracy of the limited relevant evidence that he was able to give.

43. Finally, I heard from Ms Duchart. Ms Duchart is a solicitor and partner at Wrigleys solicitors. She is a private client practitioner with over 39 years of experience. She gave evidence as to a meeting that she and her colleague, Mr McIvor, had with Professor Ebrahimi on 10 July 2018, after Professor Whalley's death. At that meeting Professor Ebrahimi raised issues (among others) about how the validity of the 2018 Will might be attacked. The solicitors advised that one of the grounds for invalidity might be non-compliance with formality requirements and that there was a potential issue with the 2018 Will because the two witnesses of whom they were made aware, the Ilkley Witnesses, had apparently witnessed the 2018 Will the day after it had been executed, but there was no attestation clause confirming that they had done so in the presence of each other. The version of the 2018 Will produced at that meeting was a one page photocopy. At the meeting, it was finally agreed by Professor Ebrahimi that Wrigleys would investigate the witness issue further.

44. Ms Duchart and Mr McIvor also provided witness statements to the defendant which were also in evidence before me. As was clear from these witness statements, and from Ms Duchart's evidence, her attendance note was the most reliable guide to what took place at the meeting and her impressions. However, it was not a verbatim note and did not necessarily precisely follow the precise chronology of what was discussed at the meeting. Ms Duchart was a very careful, honest and accurate witness. When points were put to her regarding the note, she fairly recognised the force of points made where appropriate. Although, at the end of the day, she was frank that she was heavily reliant on the attendance note and the surrounding correspondence, she clearly did have a fairly good recollection of aspects of the meeting.

45. In the light of Ms Duchart's cross-examination, the defendant decided not to cross-examine Mr McIvor who confirmed the truth of his written evidence which remained unchallenged. According to his written evidence he had little recollection of the details of the meeting beyond the attendance note itself.

46. I had permitted the claimant to ask further questions from Mr McIvor and Ms Duchart at the commencement of their evidence, given that there were also witness statements from those witnesses put into evidence by the defendant, but the claimant did not feel it necessary to do so.

47. I should make clear that I find that the attendance note is the most reliable record of what took place at the meeting on 10 July 2018, given its fullness and the time that it was dictated and having heard from Ms Duchart.

48. For the defence, the key witnesses were of course Professor Ebrahimi himself and the two Loughborough Witnesses. I have already dealt with the oral evidence of Dr Pezouvanis. I will deal with the evidence of the other two during my analysis of the evidence.

49. In addition, I also heard from one of the Ilkley Witnesses, the former neighbour of Professor Whalley in Ilkley, Mrs Catherine Wormald. I found her evidence to be entirely truthful and accurate. Her evidence was that she had witnessed the will (without knowing what it was) on 4 May 2018 at her home and not in the presence of

the other witness. She gave some valuable insights into Professor Whalley's character but otherwise her evidence was of limited relevance.

50. There was witness evidence from Ms Brooksbank, the other Ilkley Witness. Ms Brooksbank was not called but it was agreed that her witness evidence should be received into evidence. Miss Brooksbank is a dental receptionist who was asked to witness the 2018 Will on 4 May 2018. Again, she confirmed that she did so alone and not in the presence of Mrs Wormald.

51. Mrs Tracey Ebrahimi also gave evidence. I found her evidence to be largely truthful and accurate, though I consider that she somewhat downplayed the impact of finding out that she and her husband might inherit £1.7 million or so. Her recollection in this respect is, I suspect, coloured by the time and energy taken up by these proceedings leading her to tell me that "money isn't everything". In broad terms, she had no recollection of whether Professor Ebrahimi had gone to Ilkley on 3-4 May (though he was often going there at about that time, so she thought he may have gone). She had had very little to do with Professor Whalley's 2018 Will and had "*deliberately tried to keep my distance from the whole thing, so that our home can be a more relaxed place for Kambiz to come home to*." As was the case with Professor Rahnejat, she could not believe that her husband would compromise his reputation by doing what he was accused of and which has now been revealed to be the actual position. The main value of her evidence was in explaining relations between the Ebrahimi family and Professor Whalley.

52. Finally, Professor Rahnejat gave evidence. In my judgment, his evidence too was truthful and accurate. Professor Rahnejat retired at the end of 2019 as Chair of Dynamics at the Wolfson School of Mechanical, Electrical and Manufacturing Engineering at Loughborough University He was, in effect, named as executor in the 2018 Will but had declined to take up that office having been advised by neighbours, a barrister and a solicitor, of the complexity and cost that can be involved and given that it seemed unnecessary and Professor Ebrahimi was taking up that office. He was able to give valuable evidence about Professor Whalley, having known him from about April 1994 when he, Professor Rahnejat joined the Department of Mechanical and Manufacturing Engineering of the University of Bradford. This was some 10 years or so after Professor Whalley became head of that department. Professor Rahnejat moved to Loughborough University in August 2000 but they both had houses in Ilkley and kept in touch. He also threw valuable light on Professor Whalley's views of BUID and the issue of publication of academic papers.

Wills Act 1837: formality requirements

53. As is well known s9 Wills Act 1837 in its current form provides:

> "*Signing and attestation of wills*
>
> *(1) No will shall be valid unless—*
>
> *(a) it is in writing, and signed by the testator, or by some other person in his presence and by his direction; and*

(b) it appears that the testator intended by his signature to give effect to the will; and

(c) the signature is made or acknowledged by the testator in the presence of two or more witnesses present at the same time; and

(d) each witness either—

(i) attests and signs the will; or

(ii) acknowledges his signature, in the presence of the testator (but not necessarily in the presence of any other witness),

but no form of attestation shall be necessary.

(2) *For the purposes of paragraphs (c) and (d) of subsection (1), in relation to wills made on or after 31 January 2020 and on or before 31 January 2022, "presence" includes presence by means of videoconference or other visual transmission*."

54. Although s9 does not require a particular form of attestation, in practice a professional will usually draw the will with a formal attestation clause. One reason for this is that adoption of such a clause will make it easier to obtain a grant of probate. Otherwise, it is more likely that the relevant probate registry will require, as it did in this case, affidavits of due execution. The matter is put like this in Williams on Wills Precedents (paragraph 222.1):

> "*Care must be taken to use a recognised form of attestation clause,* since if *such a clause is used, a grant in common form will be obtained almost as a matter of course and no further proof of due attestation according to law will be required. The ordinary procedure for attestation is: (i) signature by the testator; (ii) the testator's signature must be written or acknowledged in the presence of two witnesses; (iii) the two witnesses then sign in the presence of the testator and of each other. That at any rate is the ordinary practice but it is not essential in law that the witnesses should sign in the presence of each other, and a witness may now sign before, and acknowledge his signature after, the testator has signed or acknowledged*"

55. The precise form of attestation clause will of course depend on whether or not the more usual practice, outlined above, is or is not followed or an alternative course permitted by s9 Wills Act 1837 is adopted. However, for the more usual attestation position, there is a full version and a number of shorter versions. The fuller version suggested by Williams on Wills is:

> *SIGNED by the above-named [*testator*] as his last will in the presence of us present at the same time who at his request and in his presence and in the presence of each other have signed our names below as witnesses:* } [*Signature of testator.*]
>
> [*Signatures, addresses and descriptions of two witnesses*]

There are various shorter forms but the most usual is probably:

> "*Signed by the above-named testator in the joint presence of us who in his presence and that of each other have hereunto signed our names as witnesses"*.

The standard and burden of proof and the approach to the evidence

56. In the opening skeleton arguments, I received a great deal of submission about the burden of proof and the approach that I should take to the evidence.

57. As regards the burden of proof, it was common ground that the burden of proof lay on the claimant and that it is the ordinary civil standard, the court being required to find a fact if it is more likely than not or that it more probably occurred than not (*re B (Children)* [2008] UKHL 35). There was the usual debate about the standard needing more cogent evidence to be satisfied where serious allegations, such as the fraud alleged by the claimant, are made. As Lord Hoffman stressed in *Re B*, it is not enough to say that the more serious the allegation the less likely it is to have occurred and therefore the stronger should be the evidence before the court concludes that the allegation is established on the balance of probability. That approach may be appropriate in the particular case but is not the invariable rule nor is it a rule of law. As Lady Hale said in *Re B* at paragraph 72:

> "*[72] As to the seriousness of the allegation, there is no logical or necessary connection between seriousness and probability. Some seriously harmful behaviour, such as murder, is sufficiently rare to be inherently improbable in most circumstances. Even then there are circumstances, such as a body with its throat cut and no weapon to hand, where it is not at all improbable. Other seriously harmful behaviour, such as alcohol or drug abuse, is regrettably all too common and not at all improbable. Nor are serious allegations made in a vacuum. Consider the famous example of the animal seen in Regent's Park. If it is seen outside the zoo on a stretch of greensward regularly used for walking dogs, then of course it is more likely to be a dog than a lion. If it is seen in the zoo next to the lions' enclosure when the door is open, then it may well be more likely to be a lion than a dog*."

The Wills

58. In terms, the 2012 Will provides that the estate of Professor Whalley is to be disposed of in the following percentages as follows:

The claimant	90%
Dr A-Ameer	5%
Professor Ebrahimi	5%

59. As regards the bequest to the claimant, the will provides that the relevant 90% is to be:

> "*used exclusively to endow, in perpetuity, a Chair Appointment to be entitled:*

> *"The Commander R. Whalley, Chair in System Dynamics and Control" in the Faculty of Engineering, at the British University, Dubai*."

60. The 2012 Will is entirely typed, save for the signatures. There are two witnesses but no usual attestation clause. The witnesses have simply signed, in each case, after the word "Witnessed"

61. Ironically, the validity of the 2012 Will (assuming it has not been revoked by the 2018 Will) also revolves around the issue of the manner of its witnessing. As the will was executed in Dubai that is a question of Dubai law under s1 of the Wills Act 1963.

62. The 2018 Will is a one page will completed entirely in manuscript. It provides for all of Professor Whalley's property to be divided equally between the defendant, Professor Ebrahimi and his wife, Tracey Ebrahimi. The Will is signed by Professor Whalley on 3 May 2018. Immediately after his signature and the date 3 May 2018 there is written in smaller writing: "To be administered by Prof. M.K Ebrahimi and H. Rahnejat of Loughborough University."

63. Immediately under that are written the names and addresses of two witnesses. There is no formal attestation clause but just the one word "Witnessed:" after which follows the signature of Anne Brooksbank and then her name and address and the date "4.5.18" and immediately under that the name and address of Catherine Wormald and under that her signature and the date "4/5/18". The details of the witnesses are contained in an area which amounts to about 40% of the page. In other words, there is an immediate issue as to why the Loughborough Witnesses set out their details and signatures on the reverse of the document and not at the bottom of the first page of the will under the signature of Professor Whalley as did the Ilkley Witnesses who signed on the following day.

64. As I have explained, it has become clear that the Ilkley Witnesses were not together when they witnessed Professor Whalley acknowledging his signature. If the 2018 Will is dependent on them for compliance with s9 Wills Act 1837 then there has been non-compliance and the 2018 Will is invalid.

65. As I have said, on the reverse side of the one page 2918 Will are, in sequence, the names and addresses of Panagiotis Athanasiou and Dr Antonios Pezouvanis and under each, their respective signatures and the date of 3 May 2018.

66. The claimant's case was (and is) simple: the Loughborough Witnesses did not attest the signature of Professor Whalley as they say. They have simply added their signatures to the document later, after Professor Whalley's death, and at the behest of the defendant when it subsequently came to light that the 2018 Will was otherwise invalid.

The account of 3 May 2018 meeting given by the defendant and the Loughborough Witnesses

67. Rather than deal with the evidence in chronological order, it seems to me that, given the evidence of Dr Pezouvanis, it is appropriate to go straight to the evidence of the meeting on 3 May 2018 given by Dr Athanasiou (and of course Dr Pezouvanis in his witness statements) and the defendant.

68. The affidavits of due execution provided for probate purposes and made by each of the Loughborough Witnesses are in almost identical form and were sworn on 4 October 2018. Having said that they were both present at Professor Whalley's house on the evening of 3 May 2018, each affidavit says that "shortly after" their arrival Professor Whalley got out his 2018 Will and signed it, he asked them their nationalities and then asked them to sign the reverse which they did. They also each say that they "now understand" from Professor Ebrahimi that Professor Whalley was under the misapprehension that as Greek (Dr Pezouvanis) and Cypriot (Dr Athanasiou) nationals, they could not be lawful witnesses which is why he arranged for further witnesses to witness his signature the next day.

69. Each then signed a witness statement in a "proposed" matter between the claimant and Professor Ebrahimi. Each statement is dated 18 April 2019 and is in similar terms. They describe each other as a colleague and friend. They each say that the meeting was "pre-arranged" but they could not remember who organised the meeting. They say that they left shortly after 5pm to avoid traffic and that they arrived about 3 hours later at 8:30pm. Having spent some time discussing their particular topics that they had come to discuss, and Professor Ebrahimi at some time having left the room and not returned, Professor Whalley got out a document, asked if they minded witnessing it, signed it on the front, asked them their nationalities, turned the document over and pointed to where he wanted them to sign and asked them to print their names. They now estimated this as happening between 9:30pm and 10:30pm: hardly "shortly after" their arrival as stated in their earlier affidavits. They left shortly after 10pm. By inference they arrived home sometime about 1am the next morning.

70. Drs Pezouvanis and Athanasiou made second witness statements on 6 and 7 May 2020 respectively. Professor Ebrahimi made his second witness statement in the proceedings at that time too. This was the first substantive witness statement from Professor Ebrahimi giving any detail as opposed to pro forma details about earlier wills etc. As regards the 3 May 2018 meeting both Loughborough Witnesses recorded that they wished to give as much detail as possible to the extent that they had not covered it before. Each went into some little detail of the technical issues that they wished to raise that day with Professor Whalley. It is noticeable, however, that neither were able to exhibit any notes taken at this crucial meeting with Professor Whalley, though Dr Pezouvanis was able, for example, to produce notes or drawings relating to a discussion with Professor Ebrahimi on the afternoon of 3 May 2018 which he said related to the issues that he needed to raise with Professor Whalley.

71. Dr Pezouvanis could not remember whether the arrangement to meet Professor Whalley had been made with Professor Ebrahimi at the meeting that Dr Pezouvanis had with Professor Ebrahimi at Loughborough University in the early part of the afternoon 3 May 2018 or whether it was arranged before.

72. Dr Athanasiou thought that he had let Professor Ebrahimi know at some earlier time that he wanted to speak to Professor Whalley and that after the meeting between Professor Ebrahimi and Dr Pezouvanis in the early afternoon of 3 May 2018, Dr Pezouvanis came and told him that he had arranged to go to Ilkley that evening and that Dr Athanasiou could come too if he liked.

73. Dr Pezouvanis thought Professor Ebrahimi had left for Ilkley shortly after the meeting in the early afternoon, but this must have been after Professor Ebrahimi emailed him at 15:25 with a copy of the diagram that they had been discussing.

74. They stood by their earlier witness statements that they left Loughborough shortly after 5pm and Dr Pezouvanis now thought that Dr Athanasiou had driven. The arrival at about 8:30pm was confirmed because they did not remember stopping anywhere and did not recall encountering particularly bad traffic.

75. The meeting is described much as before save that the nationality issue was described by Dr Pezouvanis as being a "comment" or "flippant or casual remark or question" by Professor Whalley. "*He either asked us what nationalities we were or whether, having both worked in the UK for some time now, we had each obtained British Citizenship. I can't specifically recall how he put the question or made the comment, and I cannot remember exactly our answers but, in some way, or another, we told him our nationalities*."

76. Each witness statement contained a specific paragraph confirming that the maker had been made aware of the consequences of signing the same (and swearing the earlier affidavit) if they did not believe its content to be true and said that the maker was more than happy to sign the statement because "I honestly believe that what I am saying in it is true".

77. Professor Ebrahimi simply said that he "had arranged" for the Loughborough Witnesses to visit Professor Whalley in Ilkley that afternoon but with no more detail. That they should so visit was said not to be "unusual".

78. Following these statements, the claimants sought specific disclosure particularly in relation to bank statements and credit card statements to see if there was any evidence that any of the three travellers from Loughborough to Ilkley had indeed done so (for example, petrol or service station payments and the like) or that they had not.

79. Professor Ebrahimi served a further witness statement (his third) dated 17 February 2021. He said that he now suspected that the arrangement for the Loughborough Witnesses to travel to Ilkley was a "quick informal decision to go, most probably on the day itself." It appeared from emails that he had since found that he had probably had a meeting with Dr Athanasiou at about mid-day on 3 May 2018 and he had sent him some emails with diagrams attached. No such meeting had been mentioned by either before. He also located a number of emails that he had sent on 3 May at 16:31, 16:39 and 18:46. These all created difficulties in his earlier version of events that he had left Loughborough after 15:25 (the last email to Dr Pezouvanis) and that he had arrived in Ilkley before 6pm. He thought it possible either that he sent the emails from a service station where he had a brief stop or that he did not leave Loughborough until after 16:30.

80. Dr Pezouvanis made a third witness statement dated 19 February 2021. In that he attempted (among other things) to explain a debit card statement showing a purchase on 3 May 2018 apparently at Cineworld Loughborough for £39. He was unable to say when the purchase was. He thought it related to an advance purchase of tickets (or possibly, but less likely, a visit to Starbucks in the same complex). He couldn't say

whether the purchase was on-line or instore but gave the impression that it was either over the phone or on-line.

81. Information was collected by the claimant's solicitors regarding this purchase but the information was somewhat unclear. At the start of the trial the defendant asked permission to issue a witness summons which I granted. At that point Cineworld suddenly started providing information. It emerged during the trial from emails from Cineworld that the purchase was in-store using the ticket machine booths in the Cineworld premises in Loughborough town centre and that the time of the purchase was 17:46. This obviously raised questions about the timings given for the trip to Ilkley and also the account that the journey had been direct with no stops.

82. After this evidence had been obtained, Dr Athanasiou was called to give evidence. He confirmed at the start of his evidence that he had not recently discussed his evidence with anyone. When asked about the journey to Ilkley, almost immediately and unprompted he gave a new account of how he had gone to Cineworld to buy tickets. This, he said, was reflected in his bank statements where a transaction dated 4 May 2018 was recorded showing a transaction in favour of Cineworld in the sum of £43.53. He said that this related to a transaction from 3 May 2018 which had probably only been posted to his bank account, and therefore shown on his statement the following day. He said that he had told the defendant's solicitors about this at the time that he had been asked for the extra bank and other statements for the purposes of the defendant giving specific disclosure. He could not explain why he had not made a further witness statement explaining the position. It was of course, on any view, a material change in his evidence.

83. Before commencing re-examination, Mr Bishop felt compelled, quite rightly, by reason of his duties to the court to draw to the court's attention that he was aware that his solicitors had had a Teams video call with Dr Athanasiou once the evidence from Cineworld had been provided and to discuss the same, as I understood it within 24 hours of Dr Athanasiou giving evidence. At the time, I expressed concern about this communication with Dr Athanasiou but in the end have not heard detailed submissions as to its propriety and so need say nothing further about it.

84. Once re-examination concluded, I gave Mr Webster permission to cross-examine Dr Athanasiou further about whether he had or had not discussed his evidence with anyone recently. Dr Athanasiou was adamant that he had not.

85. What was clearly an obvious lie about the absence of such a recent communication was such as to completely undermine Dr Athanasiou's credibility. In any event, absent a waiver of privilege and explanation from the defendant's solicitors, I would not have been prepared to believe that Dr Athanasiou had indeed told them about this transaction over a year earlier that he now claimed to have taken place on 3 May 2018 (so that each of the Loughborough Witnesses are now said to have bought tickets at Cineworld on 3 May 2018, making a diversion from their route to Ilkley). The journey to Ilkley was clearly a key component of the case as was recognised by the extra witness statement made by Dr Pezouvanis trying to explain his purchase of Cineworld tickets on 3 May 2018. Had Dr Athanasiou said something to the defendant's solicitors it is unlikely that they would not then have put in a witness statement from him.

86. In all the circumstances, all that I need to say is that the evidence of Dr Athanasiou confirms to me the correctness of Dr Pezouvanis' evidence that the meeting on 3 May 2018 did not take place. Part of that assessment also relates to the lack of detail about how the arrangements for the meeting were made and the absence of any positive independent evidence that the meeting did take place.

87. That leaves the question of Professor Ebrahimi's evidence. As regards this I think I can be brief. In the light of the position, I have outlined regarding the Loughborough Witnesses themselves, does the evidence of Professor Ebrahimi lead me to doubt the evidence of Dr Pezouvanis? The short answer is that, in my assessment, the evidence of Professor Ebrahimi simply confirms me in my conclusion that Dr Pezouvanis is correct in saying that the meeting on 3 May 2018 did not take place. Some of the headline points that I have taken into account are as follows and they go beyond the evidence relating directly to the alleged meeting itself. Some, taken individually, would not necessarily have caused me to conclude that the meeting on 3 May 2018 did not take place but taken together with all the other evidence they confirm me in my conclusion that it did not.

88. First, there is the unclear evidence regarding the arrangements for the alleged meeting. Secondly, there is the absence of independent confirmatory evidence that the meeting took place. Thirdly, there is the entry in Professor Ebrahimi's calendar for a meeting in Ilkley on 4 May but no entry for the 3 May.

89. Looking more widely and taking his evidence at face value, it is difficult to understand why, having been told by Wrigleys at the meeting on 10 July 2018 that there was a potential issue with the 2018 Will (of which he had produced a front page photocopy only) and following confirmation by letter dated 24 July 2018 that the 2018 Will had not been validly witnessed by the two Ilkley Witnesses because they had not been present together at the time that Professor Whalley acknowledged his signature, Professor Ebrahimi should:

(1) not have searched for or found the original of the 2018 Will which was in the same envelope that he had taken a photocopy from and which only contained a few sheets of paper;

(2) have made arrangements on 26 July 2018 to see Irwin Mitchell LLP on 2 August 2018 on the basis that that firm handled contentious will business, whereas Wrigleys did not, and having found the original 2018 Will with the Loughborough Witnesses' signatures on the reverse had not thought it important, nor mentioned it to Wrigleys to ask if it made a difference, and decided only to "mention" it to Irwin Mitchell LLP and then only realising its importance after meeting with Irwin Mitchell LLP on 2 August 2018;

(3) in the light also of the facts at (2), have emailed Wrigleys on 1 August 2018, asking them the options to use them to "defend" the 2018 Will in court and whether it was possible to discuss a compromise with the beneficiary of the 2012 Will to avoid going to court (Wrigleys' answer was a short one: the document dating from 3 May 2018 is not a valid document);

(4) prior to the email to Wrigleys of 1 August 2018, have got in touch with Professor Alshamsi to discuss a possible "compromise";

(5) have taken the view that despite the clear and unequivocal advice from Wrigleys that the court might be able to do something to rectify the technical error.

90. As regards the attempt to reach a compromise with the claimant, Professor Ebrahimi attempted to play down that as a motivating reason for his contacting Professor Alshamsi in July 2018. Instead, he suggested that he wanted to discuss with Professor Alshamsi (1) his concerns that Manchester University might be making claims on the estate of the late Professor Whalley and (2) the conduct of Professor A.Ameer to Professor Whalley so that it could be investigated. Neither were convincing. In particular, as regards the contact from an academic at Manchester University, Richard Kirkham, the alleged grounds for suspicion either did not exist or made no sense. Professor Ebrahimi asserted that Mr Kirkham had pursued him to have a meeting whereas, once relevant emails were produced, it was clear that it was Professor Ebrahimi who had offered a meeting to Mr Kirkham to discuss Professor Whalley and Mr Kirkham had merely pursued that offer. Further, the suggestion that it was odd for Mr Kirkham to divert off the train mainline between London and Manchester to see Professor Ebrahimi was also demonstrated to be incorrect when the emails revealed that Mr Kirkham was suggesting coming to London via Loughborough on the Midland line on his way to London from York. Finally, the suggestion that he wanted to speak to Professor Alshamsi about a possible challenge to the 2018 Will coming from Manchester University made little sense if he, Professor Ebrahimi, also thought (as he said that he did) that Professor Alshamsi was likely to be raising a challenge to the 2018 Will.

91. The assertion to the Loughborough Witnesses (and in his evidence to the court) that the reason for Professor Whalley seeking further witnesses on 4 May 2018 was that he had doubts as to whether foreign nationals could attest an English will, when the so-called evidence of such determination, even on the evidence put forward by Professor Ebrahimi, was minimal, made little sense. It is difficult to see why Professor Whalley would have changed his mind overnight of the competence of attesting witnesses given his personality, even if he had changed (over some years) his position regarding gifts by will to overseas entities. Some explanation for two sets of witnesses witnessing the 2018 Will within 24 hours needed to be found but the explanation provided was wholly contrived.

92. Looking at all the evidence about the 3 May 2018 meeting the position can be summarised as follows. The evidence regarding the details of the trip on 3 May 2018 was unconvincing. A last minute arrangement to visit Professor Whalley would have been difficult to arrange given the evidence as to the limited opportunity to contact Professor Whalley other than at limited mealtimes and seemed most unlikely given it involved a 6 hour round trip. There was no evidence that Professor Whalley had invited junior academics in the past to his home to discuss academic matters late in the evening. There was no contemporaneous evidence by way of diary entries, credit card/debit card expenditure and the like. The evidence about the sending of emails late in the afternoon of 3 May 2018 by Professor Ebrahimi was in oral evidence suddenly embellished by a new theory that he had sent them on arrival at Ilkley but before he went to Professor Whalley's home. In any event, the timings simply did not work.

93. As a matter of generality, the content of the actual explanations given to explain oddities in the defendant's case and evidence put forward were unconvincing.

94. One of the contemporaneous pieces of evidence crying out for an explanation was the 2018 Will itself. Leaving aside the issue as to two sets of witnesses, it was wholly unclear why the Loughborough Witnesses would not have been asked to sign and set out their details on the bottom of the first page as (according to the defendant's case) the Ilkley Witnesses were asked to do (and did do) the following day. The most natural thing (as in the case of the 2012 Will) would be to have the word "witnessed" and the relevant witness details placed immediately under the signature of the testator, rather than being freestanding and with no explanation on the reverse of the document.

95. For all these reasons and in all the circumstances, I am satisfied that the defendant's case was a false one, supported by the false evidence of the two Loughborough Witnesses, and that the 2018 Will is invalid.

Referral

96. I invited representations from the parties as to whether or not I should refer the papers to the appropriate authorities. In light of that request, it is perhaps unfair of Mr Bishop to criticise, at least impliedly, the claimant for having taken that opportunity. Although I accept it is ultimately a matter for the court I do not see why parties should not be able to assist the court by making relevant submissions. Possible criminal actions that may have taken place in this case include perjury, conspiracy to defraud and conspiracy to pervert the course of justice. I was referred to the seriousness of those offences, in part by reference to the relevant sentencing guidelines.

97. Given the facts of this case I consider that I should refer the papers on to the DPP and direct that he should be provided with a copy of this judgment and copies of the written evidence from Professor Ebrahimi and each of the two Loughborough Witnesses as lodged in these proceedings.