

Contested Wills

Disputed Wills

Do you believe:

- The last Will of a deceased person was invalid?
- The Will was created fraudulently?
- The person making the Will did not have sufficient mental capacity at the time they gave instructions and then signed their Will?
- They were influenced into signing a Will, and against their wishes?

A person signing a will must be over 18, not be under the influence of another person and understand exactly what it is they are signing. Finally the will must be signed and dated by the Testator (the person making the will) and it must be witnessed by two independent adult witnesses (who must not be beneficiaries).

Contentious Probate

- Do you feel a Will has been badly or negligently drafted?
- Do you have a dispute with the executors or beneficiaries of an estate?
- Are you a beneficiary who feels that an Executor is not carrying out their duties correctly?

Contentious Probate also covers disputes between beneficiaries over the division of assets.

- Do you think you have an interest in any property belonging to a deceased person?
- Has a person died leaving a valid will, but after the named Executors and Beneficiaries in the will have also died?

Intestacy

- Has someone died without leaving any valid will at all?
- Alternatively, is there a will but it is wholly or partially invalid?
- Has what would otherwise have been a valid will been nullified by a subsequent marriage, remarriage or divorce?

If so, the legal *rules of intestacy* must be followed; first which govern who may deal with the estate, and secondly who will benefit from the estate of the person who has died, and how much they would be entitled to.

Contested Wills cont...

“Inheritance Act” Claims

The Inheritance (Provision for Family and Dependants) Act 1975 covers the situation where someone who was financially dependent of a deceased person, and whether a family member or otherwise, in some cases would be entitled to a claim against the estate on the basis that “reasonable financial provision” had not been made for them under the will or on intestacy.

Lost Wills

Where the original last will of the deceased has been lost, it may be possible to prove a copy of the will.

Inheritance Tax Issues

- Do you have a dispute with HM Revenue & Customs about the amount of Inheritance Tax you have been asked to agree and pay as executor, beneficiary or recipient of a previous lifetime gift?
- Do you think the tax is excessive or perhaps someone else should be liable to cover the Inheritance Tax bill on an estate?

Powers of Attorney

- Disputes between appointed attorneys and applications to The Court in cases where a person has already lost or is losing “mental capacity”.

Trust Disputes

- Are you a trustee or beneficiary of a trust, and have an issue with or concern regarding the other beneficiaries and /or trustees, or with the terms of the trust itself, as usually are set out in a deed or a will?

Estoppel

- Have you been promised money, a property or other assets at some point and acted on that promise to your detriment for a period of time thinking you would benefit eventually only to discover after that person has died, that the promise has been broken?

You may be entitled to make a claim; if it is for land then this is known as proprietary estoppel.

Constructive Trusts

Sometimes it is possible to successfully claim that the **legal** owner of property, other assets, and/or cash is really held for another person who is in fact the true **beneficial** owner of the whole or at least part of that property.