

Disputing a Will or making a claim against an estate



When someone dies it is distressing enough without the added worry that a dispute over the Will or estate can bring. However, if you feel that you are dissatisfied with the provisions of the Will there may be ways of challenging the Will and of making a claim against the estate.

Disputing a Will: what grounds do you need?

It is a common misconception that there is little that can be done to challenge a Will. Generally, of course, Estates should be distributed according to the terms of the Will. However, there are a number of things that can be done to dispute a Will:

- The Will may be wholly invalid on the grounds that it was incorrectly witnessed, or that the person making the Will did not properly understand what they were doing. They may not have fully appreciated the contents of the Will, or may have been unduly influenced. The Will may also not have been the last Will or may have been superseded by a later one, or effected by a subsequent marriage. The Will may be valid but some gifts may still fail, with important consequences for others, if e.g. a beneficiary or their spouse witness the Will, or the intended beneficiary has since died, or an asset is no longer in the Estate to give.
- There may be mistakes in the Will which need to be corrected.
- The Will may have been drawn up incorrectly by the solicitor or Will writer and compensation may be available to the person losing out
- If you consider that a Will or an intestacy is not fair to you, you can apply to the Court to vary its provisions, to provide some money for you.
- If you are in one of the categories below, you are able to make a claim:-

married to the deceased;

in a civil partnership with the deceased;

someone who has lived with the deceased as

husband or wife for at least two years;

a former spouse who has not remarried (and did not have a financial settlement as part of the divorce);

a child of the deceased (including an adult child);

someone treated as a child of the family;

or otherwise someone else financially maintained by the deceased.

- You may consider that assets or debts have been wrongly dealt with.
- You may consider that the executors have acted improperly in the way in which they have managed the distribution or administration of the estate.

If you feel that the above circumstances apply to you then you can also take a look at our Probate Disputes videos at wards.uk.com/2013/03/videos-understanding-probate-disputes. In these you will find more information, as well as guidance on timescales and funding for such claims.

For more information on the probate process please follow the link wards.uk.com/wills-and-mental-capacity or contact Jenny Pierce on 0117 9292811.

For more information about disputing what has happened since someone has died please follow the link wards.uk.com/service/probate-disputes or contact Elizabeth Fry on 0117 9292811.