

## DISPUTED WILLS & ESTATES

If someone you know has died but you have concerns about their Will or you have not received an inheritance you were expecting, you will have a lot of questions and concerns.

### **How can I challenge a Will?**

A Will is a private document belonging to the person who made it. If that person has died, the only people who are able to see the Will are the executors and they will usually need to apply for a Grant of Probate. The Grant is a legal document which confirms that the executor has the power to deal with the deceased person's assets (property, money and belongings) and confirming that the person named on it is entitled to deal with the estate, i.e. collect all the assets, pay all liabilities and debts of the estate and distribute the net balance to entitled beneficiaries. The Grant will be issued by the Probate Registry and once it has been issued, it is a public document.

Anyone can ask to see a Will of someone once the Grant has been issued. If, once you have seen a copy of the Will, you are unhappy and you feel that an inheritance has been affected, then you can challenge the Will in several ways.

### **Is the Will valid?**

To be valid, a Will must be in writing, be signed by the person making it, and be witnessed and signed by two other people. If the Will has not been signed properly, then you may be able to challenge it.

### **Did the person who made the Will have mental capacity when they wrote the Will?**

If the person who made the Will had an illness when they died, for example dementia, when they made the Will they may not have understood what they were doing when they wrote the Will. It will be necessary to show that they lacked the appropriate mental capacity to prepare and sign a Will.

### **Was someone putting pressure on the person who made the Will?**

You might feel that someone put undue pressure or influence on the person who made the Will and that the Will does not really look like the Will which would be written without that influence?

### **Did the person who made the Will understand what they were signing?**

Sometimes, documents are signed that have not been read properly or not understood. If you think that this is the case, you can challenge the Will on the grounds that the person who made the Will did not have 'knowledge or approval'.

## **What happens if you were financially dependent on the person who has died and you have not been left anything?**

It is possible under the terms of the Inheritance (Provision for Family and Dependents) Act 1975 for certain people to make a claim against an estate after death.

### **Who can make a claim?**

There are certain people who can make a claim against an estate, such as a disappointed spouse or child. If you are unsure if you are one of those people, we can help you.

Once you know if you can make a claim, to be successful in your claim you will need to show that a Will fails to make “reasonable financial provision” for you, for example if a spouse / civil partner makes a claim on a estate, it means such financial provision as it would be reasonable in all the circumstances for a spouse/civil partner to receive. This means their claim is not limited to just what they need for their day to day living expenses.

In the case of any other applicant, it means such financial provision as it would be reasonable in all circumstances for the applicant to receive for his or her maintenance. This is a lower standard than the one that applies to spouses and civil partners; any financial award will be designed to cover day to day expenses

### **I was made a promise by the person who died that I would be looked after when they died**

If you have been made a promise by someone before they died, you may be able to make a claim against their estate because you relied on that promise and lost out financially and you have not been remembered in the Will.

### **I am concerned that someone has made a Will but I am not allowed to see it or I think it has been destroyed**

As Wills are private documents until the Grant of Probate has been issued, it can sometimes be hard to see a copy. However, you should ask the executors if they will let you see a copy or perhaps even the section of the Will that refers to you. If you think it has been destroyed we can advise you what to do.

### **I want to stop someone submitting a Will for a Grant of Probate**

If there is a dispute over which is the final Will of the person who has died, it is possible to enter what is known as a ‘caveat’. This means that unless the caveat has been removed, it will not be possible to get a Grant of Probate. However, this is not always the right option if you are concerned about a Will as preventing the administration of the estate can have its own downsides.

### **What can I do if there is no Will?**

If someone dies without making a Will, they are said to have died ‘intestate. This means that the options of challenging a Will are not available to you, but you have grounds for one of the other claims and here at Gregg Latchams we can help you.

## **I am an Executor and I am involved in a dispute about the deceased's estate**

We can advise you how to continue dealing with an estate if such a claim is brought against the estate by a disappointed beneficiary.

### **How can GL Law help you?**

We have specialist lawyers who will take time to get to know you in order to provide you with advice tailored to your specific needs and wishes.

Full and transparent information about our fees structure will be provided at the outset, and the basis of our charging agreed before we begin work.

**For more information or to speak to a solicitor please contact us by calling 0117 906 9400 or email [hello@gl.law](mailto:hello@gl.law)**

*The content of this guide is intended for general information purposes only and shall not be deemed to be or constitute legal advice.*

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