



Probate Disputes

Losing a loved one is difficult. Matters can be made worse when the estate of the deceased raises problems. In circumstances such as these, it is often best to reach an early and amicable settlement rather than litigating to trial.

Disputed Wills

The will of the deceased can be challenged on a number of grounds, most commonly:

- There is a technical defect in the will itself, for example it was not executed or witnessed properly.
- The deceased did not have mental capacity at the time he executed the will, for it to be valid.
- There was undue influence. The deceased made the will in the terms he did because of the threats or pressure by someone else.
- The will document is not genuine.
- The will was revoked and of no effect. For example because the original will was destroyed or the deceased married after making the will.

Challenging a will is not easy and the court must see evidence to support the allegations made. Often, there is a great deal of witness evidence, and sometimes, medical evidence to support the allegations made.

Claims under the Inheritance (Provision for Family and Dependents) Act 1975

Certain classes of people can seek money or provision from the estate of the deceased, including:

- Spouses and civil partners
- Children
- Co-habitants (unmarried couples living together).
- Dependents/those who had been maintained by the deceased.

Litigation Services

- Contractual disputes (inc sales of goods and services)
- Director, shareholder and partnership disputes
- Professional negligence
- Probate, will and inheritance disputes
- Commercial property disputes
- Residential property disputes
- Building & construction disputes
- Intellectual property disputes
- Contested insolvency
- Debt recovery
- Commercial mediation

For further information on our Litigation Services please contact:

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Probate Disputes continued

To obtain an order of the court to receive something from the estate, the qualifying person it must prove that the will or intestacy failed to make reasonable financial provision for the maintenance of him

The standard of provision depends upon the category and status of the person claiming.

These types of claims can be difficult to predict as it is for the Judge to decide whether he thinks adequate provision has been made and whether the Claimant requires maintenance. A great deal of evidence must be provided to the court, in particular financial information about the circumstances of the person claiming.

These types of claims have a very short period of time in which to bring them so they must be pursued quickly. If a claim is not issued at court within six months of the Grant of Probate or Administration, the claim cannot be pursued without permission of the court. Permission to start a claim outside the six months is very difficult to obtain and unlikely. If you have any doubt as to whether you might be entitled to something from the estate of the deceased, you should take action straight away.

Other services Dootsons can help you with:

- Employment
- Commercial
- Wills, trusts and probate
- Residential conveyancing
- Family
- Mediation

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