

Estate Disputes

Disputes over the estates of people who have died have become more common in recent years. Such disputes can take a number of different forms.

They may relate to challenges to a will, such as:

- where the deceased person has left a will but it was not properly executed
- where a will was left but the at the time it was made, the deceased person lacked the necessary degree of understanding to make it
- where there has been undue influence on the part of another person

In other situations, there may be a perfectly valid will, but the deceased person has “cut out” someone for whom they should have made some provision. In this type of situation, it may be possible for the disappointed person to apply to the Court for provision from the estate. The Inheritance (Provision for Family and Dependents) Act 1975 makes it possible for certain categories of people to apply to the Court for help where the will hasn’t made reasonable provision for them. The Act can also be used where there is no will and the Intestacy Rules do not make reasonable provision.

Not everyone can apply. The Act covers people like the husband or wife (or civil partner) of the person who has died, former spouses or civil partners, children, people who lived with the deceased and those who were maintained by him or her.

In a suitable case, the Court can effectively re-write the will or the effect of the Intestacy Rules, dividing the estate differently so as to make provision for the person who has applied, but at the same time bearing in mind the needs of the other people who are entitled to the estate.

There is a crucial time limit in a claim under the Inheritance Act. In this type of claim, Court proceedings must generally be started within 6 months of a Grant of representation (such as a Grant of Probate) being made.

Disputes can also arise where a will has been incorrectly drafted (very common with “D.I.Y.” wills) or where a Personal Representative (such as an Executor) is not carrying out his or her duties properly.

If you are worried about the estate of someone who has died, contact our Civil Litigation department straight away for a friendly and professional response.



HATTEN WYATT

Solicitors & Advocates

Established 1844



Article author:

Richard Giles

Partner

*Dispute Resolution and
Litigation Partner*

Email:

richard.giles@hatten-wyatt.com

If you wish to discuss these matters further, please do not hesitate to contact Richard Giles on:

01474 351199 or alternatively
richard.giles@hatten-wyatt.com

Telephone: (01474) 351 199 www.hatten-wyatt.com

18/21 Wrotham Road, Gravesend, Kent, DA11 0PF

51/54 Windmill Street, Gravesend, Kent, DA12 1BD