

Inheritance Claims on the Rise?

There appears to have been in recent years a steady increase in claims under the Inheritance (Provision for Family and Dependents) Act 1975. This might in part be attributed to the fragmentation of families but also to the dramatic increase in property prices over the last few years.

The matter was recently brought to public attention in the case of *Ilot v Mitson*. In this case the deceased left the majority of her net estate to three charities having made no provision whatsoever for her adult daughter from whom she had been estranged for some 30 years. The deceased had been clear in her wishes to disinherit her daughter and had left a letter to her Executors to re-enforce her intention.

Nevertheless the daughter succeeded on appeal and was awarded £164,000 from the deceased's estate.

Whilst it is of course clear that a parent is under no obligation to leave anything to children under the terms of their Will, it is open for children to bring a claim under the provisions of the 1975 Act on grounds that the deceased failed to make reasonable provision for them.

The right extends not just to children but also to surviving wife/husband, co-habitees, stepchildren or anyone having been maintained by the deceased.

In determining such a claim, the Court will have regard to factors such as the respective resources of the claimant as well as the Will beneficiaries, the size and nature of the estate of the deceased and any other matter including conduct which the Court may regard as relevant.

Whilst therefore it is always advisable to have a Will to distribute your estate as you so wish there is the possibility that your wishes may ultimately be overridden as happened in the *Ilot* case.

At Nantes we can help you to minimise the prospects of your Will being successfully challenged.

Examples of claims that can arise in this area include: -

- Claims where inadequate provision has been made for a party in a Will.
- Challenges to the validity of a Will, whether due to a lack of mental capacity, undue influence or improper execution of Wills.
- Disputes relating to the interpretation of a Will.
- Claims involving agreements made with the deceased before death, particularly with regards to significant property and gifts.
- Disputes over the identification of beneficiaries.
- Claims for and against Executors, Personal Representatives and Trustees.
- Disputes relating to Trusts and Charities.
- Professional negligence claims relating to the drafting of Wills and Trusts.
- Disputes about a person appointed to act on behalf of someone who has lost their mental capacity.



Tim Glover - Litigation Solicitor

If you believe that you may have a claim in this area, Nantes can provide you with initial advice free of charge and with no obligation. Our team of experienced solicitors will be sensitive to your situation and advise you in straightforward language.

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