



Will, Trust and Estate Disputes

The expert hand, with the human touch

Expert hand



Paula Myers

Norman Martin and Joy Williams began their life together in 1994. Both had previously been married but had been together for almost 20 years when sadly Norman died unexpectedly in 2012.

Much to Joy's dismay, it was discovered after his death, Norman had not updated his Will. The Will was written in 1986 when he was still in a relationship with his wife, Maureen, from whom he was estranged but not legally divorced.

This meant that the entirety of Norman's estate passed to Maureen and that nothing was left to Joy.

Unfortunately, Maureen (who had inherited the large marital home by survivorship and Norman's pension) was not willing to allow Joy to keep Norman's share of the property, leaving Joy unable to purchase an alternative property and only a small pension to rely on.

Paula Myers, Joy's solicitor

We advised Joy that she was eligible to bring a claim under the Inheritance (Provision for Family and Dependents) Act 1975, as a person who was living as a cohabitee of the deceased person for well over two years prior to death. This meant that Joy was entitled to ask the court to make reasonable financial provision.

The claim was heavily disputed by Maureen but we felt that Joy had a strong claim on both moral and legal grounds. For this reason, we supported Joy in taking the claim to trial at the Royal Courts of Justice.

The court found that Joy had been a very important part of Norman's life and that she had not been awarded reasonable financial provision under his Will. The judge duly ordered that the house be transferred to her outright.



Human touch



"I chose Irwin Mitchell to represent me on the advice of my sister-in-law. At that time I was desolate with grief. The entire experience has seemed like a bad dream. My legal team has held my hand throughout, they have been incredibly patient and understanding - it can't have been easy for them, dealing with a crying, frightened client who knew nothing at all about the legal system! It became a personal journey for me and them because of the nature of my case.

They have become my friends - I will never forget them and their support."

Joy



“Without Irwin Mitchell, we could never have got through what has been the most stressful time we have ever known. We will not forget what you have done for us both - you have been a rock through this awful ordeal and we are forever grateful.”

Introduction

Losing a loved one is the most difficult thing any of us have to go through in life. The grieving process can be made even more emotional and difficult if there is a dispute over a Will, trust or estate.

To talk to a specialist advisor today simply contact us on:

 **0370 1500 100**

 **irwinmitchell.com**

How Irwin Mitchell can help

If you are experiencing difficulties with the provisions in a Will or with the administration of a trust or estate, our highly specialised team can assist with the following issues.

Disputes over the role and actions of executors and trustees	Pre-death Agreements
Inheritance Act Claims	Professional Negligence
Invalid Wills	Statutory Wills

Disputes over the role and actions of executors and trustees

Disputes over the distribution from trusts or the action of trustees

We can assist beneficiaries of trusts who have not received an expected distribution from a trust either because the trustees have declined to provide for them or because the trust assets have been poorly invested or used for other purposes. We can also assist trustees faced with such claims.

Disputes over the way in which a trust or estate is being administered and applications to remove trustees and executors

Sometimes beneficiaries cannot reach agreement between themselves as to how a trust or estate should be administered. For example, there may be a dispute about whether a property should be sold or transferred to the beneficiaries as a whole asset or whether trustees or executors should take action to recover an asset.

Sometimes a disagreement arises between the trustees themselves as to a particular course of action within the administration of the trust. This can cause major problems for the executors or trustees who must continue to act in the best interests of the beneficiaries as a whole. We can help either beneficiaries or trustees manage these issues and if necessary, will assist with an application to seek the court's approval to reassure the beneficiaries and minimise the risk to the trustees. Where relationships have broken down, trustees and executors can be replaced and our experts are often appointed by the court to take over the administration of a difficult estate or trust.

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Inheritance Act - claims for reasonable financial provision

We can help if you have been left out of a Will or have not been adequately provided for or if you were promised an inheritance which you have not received. We can also help if you are faced with such a claim either as a beneficiary or as an executor.



Invalid Will claims

The validity of a Will can be disputed for a number of reasons including:

Lack of mental capacity of the Will maker
Forgery or fraud
Invalid drafting or signatures
Undue influence or pressure
Lack of knowledge and approval of the contents of the Will.

We can help you investigate the circumstances surrounding the making of the Will and advise you on your claim. In some cases, mistakes in Wills can be rectified either by agreement or through the court. If the Will is found to be invalid an earlier Will or the rules of intestacy will apply to the estate.

Pre-death agreement claims

Potential beneficiaries who have been led to expect that they would receive property or money from an estate or trust may find themselves in a very difficult position when a Will or trust does not put into effect that promise. We can advise on enforcing the promise or seeking compensation.



Statutory Wills

Mismanagement of the affairs of the elderly and vulnerable

Attorneys and deputies appointed to look after the financial affairs of the elderly and vulnerable are subject to strict rules and need to keep accounts. Our team can help when issues arise over the appointment or actions of attorneys and deputies and if necessary can assist in the making of a new Will, called a Statutory Will, for a person who no longer has the mental capacity to make a Will themselves. We are experts in investigating and dealing with financial abuse cases.

Professional negligence claims

We can advise in cases where a professional adviser or Will drafter has given incorrect advice either to you in a personal capacity or as a trustee. We can assist with the recovering of compensation for your losses if a mistake cannot be rectified.



Taking care of you and your family

Our expert teams can find solutions to the most complex and distressing of disputes involving Wills, trusts or the affairs of the elderly and vulnerable.

Our reputation in this highly specialist area is second to none with most of our expert practitioners being accredited by the Association of Contentious Trust and Probate Specialists (ACTAPS).

Why choose Irwin Mitchell

The Will Trust and Estate Disputes Team is the largest specialist team in the country

We have one of the longest established teams with an unrivalled track record

Our national office network means we can support clients across the country

Every client we deal with is unique and we will tailor our services to meet your needs and to ensure that the best possible outcome is achieved

We are regarded by independent legal guides, the Legal 500 and Chambers & Partners as one of the leading firms in the UK

We offer a range of funding options to suit our clients including our no win, no fee scheme and whether you are an individual or a holder of a professional office, the schemes will help you manage and minimise your risk

We work closely with expert counsel and mediators who will help clients achieve the best possible outcome.



Your very own team of experts

We believe in putting clients at the centre of everything we do. We understand that your circumstances are unique. By building a special relationship based on openness, trust and honesty, we are better placed to provide the expert advice you need.

Our promises to you

A team of legal advisers will work with you to resolve your dispute

You will be assigned a dedicated lawyer who will be your key contact and be responsible for ensuring your team achieve the best outcome for you

Our unique approach provides you with assurance that your situation is understood

You will receive understanding, empathetic and professional advice

We'll see you at a place convenient for you.

How much will it cost?

Don't worry about legal costs. Contacting us for initial advice costs you nothing. If we pursue a claim, we will review all the options for funding with you. We fully recognise that funds and assets may be tied up in disputed estates and we are as flexible as possible in relation to funding to help you.

How can I fund my claim?

We will arrange a funding option including:

Private monthly billing
Payment on conclusion of the case
Conditional Fee Agreements – commonly known as a “no win, no fee” agreement*
Legal Expenses Insurance – as part of your household or car insurance, you may have legal expenses cover to help with any legal costs
Specialist financing options.

*subject to entering a no win, no fee agreement with us and complying with its terms.

We will talk through all the funding options available to you after a free initial discussion about your dispute, so that we can advise on the best option for your circumstances.

Can any costs be recovered from the opponent?

A dispute can be settled at any time and the parties can agree between themselves who should pay the costs. If the dispute is not settled and the matter proceeds to a final hearing, the court will decide how costs are to be paid. This is subject to subsequent assessment where the court will determine the level of the bill to be paid by the paying party.

The usual rules in terms of costs for court proceedings and therefore for disputes of this kind, are that the unsuccessful party pays for all costs. This is contrary to the common misconception that all the parties' costs are paid from the trust or estate.

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📞 0370 1500 100

💻 irwinmitchell.com

Frequently asked questions

We fully understand that you may have a number of questions which need some answers. We often hear similar questions from our clients at the beginning of the legal journey so to help, below are answers to some of the most common questions.

How do I obtain a copy of a Will?

If a family member or close friend dies, you may be unclear as to whether you are named in the Will or you may wish to find out who benefits from the estate so that you can decide whether to contest the Will.

Option 1 – Ask the Executor

Ask the executor or the deceased's solicitor. All Wills are eventually made public so the solicitor or the executor has little to gain by keeping anything from you. All beneficiaries have a right to know that they are a beneficiary. In the case of disputed Wills, the solicitor or Will writer has to make a copy of the Will and all relevant documents available at the outset of a claim.

Option 2 – Ask the Probate Registry

If you do not know who the executor is, you can search at any probate registry to obtain a copy of the grant of probate which will have a copy of the Will attached. If a grant has not yet been issued, you can request a standing search which will last for six months and notify you when a grant is issued.

Do we need to meet in order to discuss my claim?

We are happy to meet you at no cost or we can deal with matters by email or telephone. We have clients across the country and can arrange a meeting in a place convenient to you.

Will I have to go to court?

We know that most people are keen to avoid their disputes heading to court. Will and trust disputes often involve family and friends and most disputes are resolved by negotiation and discussion without the need to go to court. However, should your dispute need to go to court, we have the experience required to handle this efficiently and effectively and to make sure you get the right outcome.

How long does a claim take?

We aim to resolve your claims as quickly as possible. Most claims settle without the need for legal proceedings and within a year.

During this time, we will carry out investigations and enter into correspondence with the opponents. Many claims are settled following a mediation, which is an alternative and effective method of resolving a contested Will claim, without the need to go to court.

It involves an independent third party, a professionally trained mediator, who helps the parties come to an agreement. Mediation is a flexible process that can be used to settle disputes in a whole range of situations, including contested Wills.

A claim will take longer if the parties cannot agree and we have to issue court proceedings.

On-going support and assurance

Providing high quality advice requires a close relationship based on honesty and openness.

Support network

We have a lot of experience of working with support groups and have developed strong relationships with a range of organisations, these include:

Cruse Bereavement Care

The UK's largest bereavement charity providing support, advice and information to children, young people and adults.

T: 0844 477 9400*

E: helpline@cruse.org.uk

W: www.cruse.org.uk

Child Bereavement UK

Child Bereavement UK supports families and educates professionals when a baby or child of any age dies or is dying, or when a child is facing bereavement.

T: 01494 568 900

E: support@childbereavementuk.org

W: www.childbereavementuk.org

Age UK

Age UK is a national charity helping people later in life with everything from loneliness, funeral arrangements, support, advice and much more.

T: 0800 169 2081

W: www.ageuk.org.uk

*Costs apply, see the charity website for details

Your experts when you need them

Everyone needs a lawyer at some time in their lives. It may be that you need advice on a legal problem or dispute that has arisen.

You may simply be moving home, require specialist advice to claim compensation for a personal injury or experiencing a difficult family matter. That's where we come in. Irwin Mitchell offers a diverse range of legal services and is passionate about providing the best legal advice and guidance.



This includes

Divorce, relationship breakdowns and child care

Moving home

Questioning social and health care provision, education, planning or environmental decisions

Support on making decisions about personal welfare and healthcare matters and how the Court of Protection can assist

Wills, trust and probate

Having difficulties with your employer

Taking care of your financial outlook with tax and trusts advice

Personal injury



All the support you need

We understand that contacting us might seem like a big step – especially if you haven't contacted a lawyer before.

Don't be worried about picking up the phone to us. We understand the sensitive and difficult issues you may be experiencing. Our friendly team of specialists have the skills and experience to guide and support you every step of the way.

To talk to a specialist advisor today simply contact us on:

 **0370 1500 100**

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expert hand,
human touch

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