



**Supporting You
Through Will, Trust
and Estate Disputes**



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 difficult and emotional if there's a dispute over a Will, trust or estate.

We can resolve the most complex and distressing of disputes involving Wills, trusts or the affairs of the elderly and vulnerable.

We're here not just to give expert advice, but to guide and support you.

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From our very first meeting, I felt assured that our case was going to be in the best of hands. The delicate nature of our case really showed up the caring and sensitive nature of the Irwin Mitchell team.

Paula
Our client



Will Disputes

When a loved one passes away, it's important to know that their Will accurately reflects their wishes. If you've been left out of a Will, haven't been left as much as you need, or think the Will is wrong in some way, you might want to dispute it.

Inheritance Act – claims for reasonable financial provision

We can help if you've been left out of a Will, haven't been adequately provided for or if you were promised an inheritance which you haven't received. We can also help if you're 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

If you were promised property or money from an estate or trust, but a Will or trust failed to deliver it, you'd find yourself in a very difficult position. We can advise on enforcing the promise or seeking compensation.



Two other firms said I had no grounds. Paula Myers' advice was that I wouldn't know until I'd collected evidence. Her professionalism persuaded me to take those initial steps. I'm delighted I did – the team are professional, experienced, and care about their clients.

Jonathan Kemp

The 3rd Viscount Rochdale

Jonathan's Story

Jonathan Kemp, the 3rd Viscount Rochdale, came to our Will, Trust & Estate Disputes team for advice following the death of his father St John Durival, the 2nd Viscount Rochdale, in February 2015.

It came as a devastating surprise when he discovered that the role of looking after the family estate hadn't passed to him as in family tradition but to his stepmother, along with the entire £11.3m estate. Jonathan had been raised to manage the estate, which had been passed to the eldest male child for generations.

At 55, he'd expected to inherit the majority of his father's assets, as well as the peerage. In an already distressing time for Jonathan and his family, he discovered that his father had made a number of new Wills since 1991, gradually transferring the estate to Jonathan's 77-year-old stepmother Elizabeth, and her eldest son from a previous marriage.

Empathy and analysis

His father had made a Will in 1991 which appeared to align closely with a sense of family and tradition. The estate would be left to his wife for her lifetime, and thereafter entirely to Jonathan.

Shortly before the first major change to the Will, Jonathan's stepmother had requested that the estate be transferred to come under her control. Jonathan and his three siblings were advised that this would have a detrimental effect on the estate in general, so they refused consent to the transfer. This may have been the catalyst for what followed.

The evidence suggested that a plan to engineer changes in the Will was then put in place. His father made new Wills and Codicils in 1996, 1999, 2003 and 2004, with each change gradually diluting Jonathan's share. This was thought to be justified by exaggerating certain disagreements that had occurred between Jonathan and his father.

Dedication and commitment

The case involved reviewing a substantial amount of documentation including Wills, private correspondence, and medical records. It became apparent that his father had been suffering with dementia for some time before his death, but this had been potentially concealed from the outside world.

Witnesses provided evidence to support the assertion that his father was unable to stand up to his wife, who was said to have a “controlling, overbearing and forceful” character.

We took statements from a number of people including old family friends and estate workers who recounted instances of this controlling behaviour.



Clients are often grieving and upset. To be faced with the shock of being disinherited, or find that the Will provisions weren't as expected can be devastating. The law can protect against this.

Paula Myers
Jonathan's lawyer



Supporting You With Disputes Relating to Executors and Trustees

If you're experiencing difficulties with the administration of a trust or estate, we'll work with you to resolve it. We work collaboratively with individuals, trustees, personal representatives, fiduciaries and creditors to resolve contentious matters, no matter how complex.

Disputes about distributions from trusts, or actions of executors and trustees

If you're expecting to receive a distribution from an estate or a trust, but something has gone wrong, we can help. It may be that an executor or trustee is declining to co-operate, or trust assets have been poorly invested or used for other purposes. Sometimes beneficiaries can't

agree how a trust or estate should be administered. For example, there may be a dispute about whether a property should be transferred to the beneficiaries, or sold to raise cash, or whether trustees or executors should take action to recover an asset. We can also help trustees who are faced with such claims.

Trustee and executor disputes

Sometimes trustees don't agree among themselves on a course of action. This can cause major problems for the executors or trustees who are obliged to act in the best interests of the beneficiaries.

We can help either beneficiaries or trustees manage these issues and advise on how to seek court approval

for an action, to reassure beneficiaries and minimise risk to trustees. Where relationships have broken down, trustees and executors can be replaced. Our experts are often appointed by the court to take over the administration of a difficult estate or trust. Our Trust Administration team already looks after over 1,000 family and charitable trusts of all types and values.

Statutory Wills and mismanagement of affairs

We sometimes have to deal with the mismanagement of affairs for the elderly and vulnerable. Attorneys and deputies appointed to look after the financial affairs of those who are elderly and vulnerable are subject to strict rules

and need to keep accounts. Our team can help in challenging the appointment or actions of attorneys and deputies, and if necessary we can help you to make a new Will. This is a Statutory Will, for a person who no longer has the mental capacity to make a Will themselves. We're 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. If a mistake cannot be rectified, we can help you claim compensation for your losses.

Taking Care of You and Your Family

Everyone's circumstances are unique and we'll tailor our services to meet your needs and ensure the best possible outcome for you.

We believe that building a special relationship based on openness, trust and honesty is the best way to provide the expert advice you need.

Our promises to you:

- A team of legal advisers will work with you to resolve your dispute
- An assigned lawyer will be your key contact and ensure our team achieves the best outcome possible for you
- Our approach is based on listening and understanding, in order to offer advice that is both empathetic and professional
- We'll meet you at a place that's convenient for you.



How Much Will It Cost?

If we pursue a claim, we'll review all the options for funding with you. We fully recognise that funds and assets may be tied up in disputed estates, so we're flexible when it comes to funding.

We offer a range of funding options but this strictly depends on the merits of the case and your circumstances. We have the benefit of being able to offer flexible, bespoke funding arrangements suited to your particular case and needs which many other firms cannot or do not offer. Funding arrangements can include conditional fee agreements, payment on conclusion agreements, legal expenses insurance, privately funded cases and hybrids of these different options. We can advise what's suitable for you.

Recovering costs from the opponent

If the dispute is settled without going to court, the parties will agree on how the costs should be divided. If the dispute is settled in court we'd look to recover the majority of costs, though this depends on the judge or on what can be agreed with the opponent.



They've been very impressive I received the best advice and a positive outcome regarding my late step-father's Will. I can't thank Irwin Mitchell's professionalism and communication enough.

Anne
Our client

Why Choose Us?

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 our clients choose us

- The Will, Trust & Estate Disputes team is one of the largest specialist teams in the UK in this field
- We're one of the longest established teams, with an unrivalled track record
- Our national office network means we can support clients across the country, and we'll even visit you at home if it's more comfortable for you
- Every person we deal with is unique – we'll tailor our services to meet your needs
- We're regarded by independent legal guides, the Legal 500 and Chambers & Partners, as a leading firm in the UK
- We offer a range of funding options to suit you and your particular case
- To achieve the best possible outcomes, we work with the market leading experts in this field, including barristers, medical and handwriting experts, who in turn recommend our services to their clients and contacts.

Frequently Asked Questions

How do I obtain a copy of a Will?

Option 1 – Ask the executor or the solicitor of the deceased

All Wills are eventually made public once a grant of probate is obtained, so the solicitor or the executor has little to gain by keeping anything from you. All beneficiaries have a right to know that they're a beneficiary. In the case of disputed Wills, the lawyer or Will writer must 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 don't 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're happy to meet you at no extra cost. Our team has specialists across the country and can arrange meetings in a place convenient to you. We can also deal with matters by email or telephone.

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. Your claim can be settled by agreement at any time. Should it need to go all the way, our experience comes into play. We'll ensure you get the right outcome.

How long does a claim take?

We aim to resolve everything as quickly as possible. Most claims settle without going to court and within a year. This allows for full investigations and correspondence with the opponents. Many claims are settled following a mediation, which is an effective alternative method of resolving a contested Will claim. 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 can't agree and we have to issue court proceedings.

Don't be worried about picking up the phone to us

We understand that you may be experiencing sensitive and difficult issues. Our friendly team of specialists have the skills and experience to guide and support you every step of the way.

What Else Can We Help You With?

Whether it's business or personal we understand that everyone's situation is different.

If you need legal advice or support with financial planning, we're here to offer *an expert hand with a human touch*, so you're able to focus on what really matters.

We're here to help you with:

- Buying or selling a house
- Family and relationships services
- Financial planning and wealth management*
- International and cross-border matters
- Personal injury services
- Resolving disputes
- Support with your business and employment issues
- Social, education and healthcare provisions
- Tax and trusts
- Tax reporting and compliance
- Welfare and healthcare matters.

* Financial planning and wealth management services are provided by IM Asset Management Limited which is authorised and regulated by the Financial Conduct Authority. Its Financial Services Register Firm Reference Number is 402770.



Contact us:

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💻 irwinmitchell.com

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