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Contentious Probate



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Where There's a Will...

Although making a Will is undoubtedly the best way to ensure that your funds, property and personal belongings will be distributed according to your wishes after your death, there are many things that can go wrong.

Disputed Wills

Disputes relating to Wills can occur for a number of reasons, including the following:

- The Will might not have been signed or witnessed as the law requires or may be unclear or contradictory.
- The person making the Will may not have had the necessary legal capacity or may not have understood or intended the terms of the Will.
- The person making the Will may have been subject to undue influence to make a Will they would not have wanted to make - for example excluding a family member.
- The Will itself may not be clear or may contain mistakes. The growing popularity of "DIY" Will kits has probably increased the frequency of problems of this nature.

Such cases can lead to a challenge to the validity of the Will or a claim against the person who prepared it. Mayo Wynne Baxter's experienced solicitors can advise you fully, and in plain English, on the legal position and your rights and options.

Trust and Administration Disputes

There are occasions when the Executor named in the Will does not apply for a Grant of Probate and no attempt is made to deal with the deceased's estate. Even when a Grant of Probate (or the equivalent where there is no Will) has been issued by the Probate Registry, disputes can still arise over the way in which the Will, or a trust set up by it, is being administered and we can help there too.

Inheritance Act Claims

Some family (or ex-family) members and dependants have the right to apply to the court under the Inheritance (Provision for Family & Dependents) Act 1975 to seek a share or a greater share of the estate if a Will (or the law that applies where there was no Will) does not make reasonable financial provision for them.

They are:

- The spouse or civil partner of the deceased.
- A former spouse or former civil partner of the deceased (who has not remarried or formed a subsequent civil partnership).
- A cohabitant (other than the deceased's spouse or former spouse or civil partner or former civil partner) who lived in the same household as the deceased as the husband or wife or civil partner of the deceased for the whole of the two years immediately before the date when the deceased died.
- A child of the deceased.
- Any person (not being a child of the deceased) who, in the case of any marriage or civil partnership to which the deceased was at any time a party, was treated by the deceased as a child of the family in relation to that marriage or civil partnership.
- Any person (not listed above) who immediately before the death of the deceased was being maintained wholly or partly by the deceased.

How We Can Help

Mayo Wynne Baxter is one of the leading law firms in the South East. Our team of lawyers is experienced in Wills, trust and probate law, and advises clients on the type of disputes that can arise where Wills are not properly prepared or administered or where those who should receive proper provision do not.

The law relating to such matters, and the way in which disputes are handled, is complex and expert knowledge is required. Do bear in mind that in most cases you, and we, will need to move quickly to protect your position as strict time limits can apply.

At Mayo Wynne Baxter we always remember that such cases can be particularly sensitive, particularly when family members are in dispute. We will advise thoroughly and clearly about the costs that will be involved and the alternatives to litigation, such as mediation, that may enable disputes to be settled.

Contact us

For more information please contact your nearest Mayo Wynne Baxter office using the contact details overleaf. Alternatively, please visit our website:

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