



## Contentious Probate

The raise in property values and personal wealth together with an increase in second marriage families has increased the number of disputes about wills and inheritance. Even though we are in a period of recession people have not made proper plans to provide for their families after their death. This all means that there are many arguments where either there is no will left (Intestacy) or a will is left but is out of date. The arguments can be about how the estate is dealt with or what people receive from the estate.

Watson Esam has a proud tradition of giving high quality advice for people when writing their will and making provision for the future. It is for this reputation that we are also well regarded for our experience with handling disputes over wills.

### What is Contentious Probate?

Probate is the legal process of handling the affairs of a person after they die. When a person dies someone has to be authorised by the Probate Registry to act on behalf of the estate of the deceased. Arguments can develop about how that person administers the estate or beneficiaries might not get what they thought they would.

In other cases people die without making plans to provide for all their family or people they provided for whilst they were alive. In these cases our Contentious Probate team can advise you on making an application to Court under the Inheritance (Provision for Family and Dependents) Act. These claims can be made by spouses, civil partners, children or people treated as family by the deceased. This second group of people can include co-habitees (a person living with the deceased as husband or wife), step-children or any person maintained by the deceased before they died.

### How Do I Challenge A Will?

At Watson Esam we have extensive experience of disputing wills. There are set circumstances when you can challenge a will. These include:

- **Incapacity**  
For a will to be valid the person making it must be able to know what he is doing when preparing and signing the will.



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## How Do I Challenge A Will? (Cont'd)

- **Undue Influence**  
An ageing population means that more wills are made when people are older and more vulnerable to pressure from family members to make certain gifts. To be valid a will must be made by a person voluntarily and without pressure.
- **Invalid Will**  
For a will to be valid it must be in writing, signed and properly witnessed. A beneficiary under a will cannot be a valid witness.
- **Fraud**  
A will is not valid if a person has signed it because of fraud or if there are any other suspicious circumstances about the will.
- **Estoppel**  
A person can claim rights to property in a will even if the will says it should go to someone else. The estate can be stopped ('Estopped') from disposing of the property where a person can show that the deceased had promised the property to them and they have relied on that promise. This type of claim is often made by family members who have helped purchase a house with the deceased.

## How Can I Fund These Claims?

These types of case can be expensive. At Watson Esam we will always try to settle a case with negotiation and without the stress and high costs of using a Court. Funding can be achieved through private means, legal expenses insurance and public funding (where eligible).

## Watson Esam can also help you with

- Business law
- Employment law
- Family law
- Personal injury
- Claims and disputes
- Debt recovery
- Professional negligence
- Contested probate
- Bankruptcy
- Insolvency
- Property matters
- Charities and voluntary organisations
- Wills and trusts
- Probate
- Inheritance tax planning
- Powers of attorney



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