

The Contentious Trusts and Probate Series



**MAKING A CLAIM AGAINST AN  
ESTATE FOR FINANCIAL PROVISION  
OR MAINTENANCE**

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*A claim made against a deceased's estate for reasonable financial provision is one made pursuant to the Inheritance (Provision for Family and Dependents) Act 1975 (the 1975 Act).*

**Why might I make a 1975 Act claim?**

These claims are commonly used by people who reasonably ought to have been provided for by a deceased person's estate, but for whatever reason, weren't. This might be because the deceased failed to make a Will, and the rules of intestacy make no provision for you, or it could be that you were excluded either deliberately or unintentionally.

You would make a 1975 Act claim to ask the Court to Order that some financial provision is made for you from the deceased's estate, to rectify the position.



**Who can bring these claims?**

The 1975 Act itself provides a specified list of qualifying claimants, being limited to:

- Spouses or Civil Partners of the deceased;
- Children (both minors and adults, adopted or someone who was treated as the deceased's child i.e. step children) of the deceased;
- A former Spouse or Civil Partner of the deceased, as long as they have not remarried;
- A person living with the deceased in a relationship akin to marriage continuously for at least two years prior to the deceased's death; or
- Any other person who was financially maintained by the deceased.

**Does qualifying as a claimant mean I will succeed in my claim?**

Not necessarily. The Court will consider a multitude of factors in accordance with the 1975 Act including:

- Your financial resources and needs;
- Any other Beneficiary's resources and needs;
- Any obligations the deceased had towards you or any other Beneficiary;
- The size and nature of the estate;
- Any disability of yours or any other Beneficiary's; and
- Any other relevant considerations including but not limited to your conduct or that of any other Beneficiary, the duration and nature of your relationship to the deceased, your age and, if you are an adult child of the deceased – whether there is any particular reason why you should not reasonably be expected to 'stand on your own two feet' without provision from the Estate.



**Who can help me identify whether I have a valid claim to make against an Estate?**

To determine the merits of your claim, please contact one of our Contentious Private Client specialists.

You will be required to provide as much information as there is to know about your present and future financial circumstances and needs, your health, the nature and duration of your relationship with the deceased, the reasons why you believe you were not provided for in the Will if applicable, and anything known about other Beneficiaries of the estate (including their health, finances and needs, and their relationship with the deceased).

Once we have completed our information gathering stage, we can advise you about the merits of your claim. Commonly, and with your consent, we will consult specialist Counsel to advise on your prospects of success to help you assess whether you wish to pursue your claim.

**How quickly do I need to seek legal advice?**

1975 Act claims are notoriously complex, so seeking legal advice is strongly recommended. What's more, these claims should be brought within 6 months of the personal representative obtaining the Grant of Probate or Letters of Administration, so advice should be sought promptly.

For any claims brought outside of the 6-month period, the Court's permission will need to be sought to proceed, which is not guaranteed. In this instance, you should seek advice immediately.



*"Elizabeth was very clear and precise with everything that she did and I wouldn't hesitate to recommend her services to anyone else who needs a friendly, helpful person to guide you through the process."*

## WHAT OUR CLIENTS HAD TO SAY

*"Friendly exact explanations on all legal aspects, helpful throughout and always with a smile" Mr & Mrs C, Westbury*

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*"Very understanding. I'd recommend Emma Taylor for all later life matters"*  
*Mrs W, Chippenham*

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*"We liked Phillip's quiet efficiency, his understanding and knowledge of the subject"*  
*R & L Bunnett, Corsham*



### **HAVE YOU BEEN PUTTING OFF UPDATING YOUR WILL?**

Get in touch today.



### **CREATING A TRUST ISN'T AS COMPLICATED AS YOU MIGHT THINK.**

Speak to your lawyer for more information.

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