Can I dispute inheritance?

In the UK, people are free to leave their money and possessions to whoever they choose. However, when families disagree over the inheritance, it can be possible to change or dispute the current arrangements.

In order to legally dispute inheritance, you must have the legal right to take action.

On what grounds can inheritance be disputed?

The courts will consider challenges to the distribution of inheritance based on various legal grounds, such as:

- If the will is not legally valid
- If you were dependent on the deceased person for financial support
- If the distribution of the inheritance is being managed improperly
- If promises were made that have not been met

Who has the right to dispute inheritance?

Only certain people connected to the deceased person can legally dispute inheritance. People have the right to make a claim on the grounds above if they qualify by the legal criteria set out within law. This is known as 'Legal Standing'.

When representing our clients for inheritance disputes, the first thing we need to do is establish whether they have legal standing. This relates to your relationship to the person who has died, and can include:

- Were you married to them?
- Were they your parent?
- Were you financially dependant on them?
- Are you a direct descendant of them?
- Are you included in their current or previous will?
- Are you within the time limits to raise a legal dispute?

If you do not meet any of these conditions, it may not be possible to dispute the inheritance.

You can check your right to make a claim here

Will my challenge be successful?

The likelihood of successfully disputing inheritance depends on the strength of the claim. This strength of the claim is also known as its 'merit'. The courts will look more favourably on a stronger case with more merit, for example:

- A spouse from a long marriage will have a stronger claim than a spouse from a short marriage.
- A financially dependent child under 18 will have a stronger claim than an adult child with their own income.

These are just a couple of examples, but there can be many different factors that impact the strength of a claim.

When representing our clients we assess all the relevant criteria in detail to establish the likely merit. The more merit a claim has, the more likelihood there is of the courts awarding a higher sum.

You can have an initial free assessment with an instant report on the merit of your claim here.

Should I dispute our inheritance?

Deciding to dispute inheritance can be a difficult undertaking because of the sensitivity around losing a loved one, or the resulting disagreements which often arise. People are often grieving, or angry about a situation which they feel is unfair, and family dynamics are often at play.

If you are legally entitled to a greater share of the inheritance, you are entitled to protect your interests, and this is where experienced legal representation can help. There may be a breakdown of communication between siblings or relatives, and your solicitor can act as a go-between to mediate and minimise unwanted arguments.

Sometimes, inheritance disputes are just about respecting the wishes of the person who has died, or correcting what is seen as wrong. For some, challenging inheritance in these circumstances is the right thing to do, even just for the peace of mind of respecting a persons dying wishes.

Legal standing vs fairness

Whatever the reason for challenging inheritance arrangements, the reality is that moral and legal issues are completely separate issues, and you can only make a claim if you have legal standing. Even if a situation seems unfair, the courts will only consider the legal aspects of the case.

As part of our free consultations we make a full assessment of your legal standing, and explain your rights clearly. Sometimes, understanding whether you have the right to raise a dispute is enough to give peace of mind about a situation which may well seem unfair, but has no basis in law.

You can check your right to make a claim instantly here

The will was improperly written or signed

Inheritance can be disputed if there are issues with the will itself.

Wills are legal documents that are subject to certain rules and protocols when being drawn up. If they do not adhere to these rules, they may be legally invalid.

If a will is proven to be invalid, it can be overturned by the courts.

Reasons a will may be invalid include:

- The correct procedures were not followed when it was signed
- The person was unwell and did not have the mental capacity to understand what they were signing
- The person did not fully understand or approve of the contents of the will
- The person was coerced or unduly influenced into signing the will
- The will itself is a forgery or fraudulent

If you feel the will is invalid for any of these reasons, you may be able to contest the will and have it overturned.

Read more below.

Correct procedure not followed

If the will was drawn up without the proper legal requirements in place, this is known as a 'lack of valid execution'. These requirements include:

- The will must be in writing, and signed by the person making it
- The person must have signed it with the intention of making a valid will
- The signing of the will must be witnessed by at least two other people, who must also sign it

If these requirements are not met, then the will was not properly executed and could be ruled invalid.

The person was too unwell to sign their will

According to the law, a person drawing up their will must be of 'sound mind, memory and understanding'. The legal term for this is 'testamentary capacity'.

They must:

- Understand what they are doing and what effect those actions will have.
- Understand the full extent of what they are distributing.
- Be able to appreciate the effects of including or excluding certain people from their will.
- Not be suffering from a mental illness which limits their ability to make decisions on how their money and possessions should be divided.

If the person has any health conditions that affect their mental capacity and their ability to understand what they are signing, the will could be ruled invalid. This may occur towards the end of a persons life, or if they have a specific mental disorder such as dementia.

A dispute raised on the grounds of reduced mental capacity would require medical evidence to demonstrate they were too unwell.

The person did not fully understand or approve of the contents of the will

When drawing up a will, the person must fully understand and approve of the contents of the will. This is different to having sufficient mental capacity to understand the will, and refers to certain circumstances such as:

- If they were deaf, dumb, or blind.
- If they could not speak or write, or were paralysed.
- If they were illiterate or the will was not drafted in their first language.
- If the will was signed on their behalf by someone else

If there is any suspicion that the person did not fully understand or approve of what they were signing, the will can be ruled invalid.

The person was coerced or unduly influenced into signing a will

The law says that a person must be free to make their will voluntarily. If they were coerced or pressured into signing a will containing terms they did not want, the will could be ruled invalid. This is known as 'undue influence'.

Undue influence can be difficult to prove because persuasion itself is not unlawful. It must be demonstrated that someone has overpowered them, and caused them to make or sign a will against their wishes.

The will is a forgery or fraudulent

If the true intentions of the deceased person are not contained within the will, it could be ruled invalid. There are many ways that a will could be considered fraudulent, including:

- The persons signature has been forged.
- The persons will has been destroyed.
- The contents of the will have been altered without the knowledge or consent of the deceased person.
- The person was tricked into signing a document without knowing it was a will.

Contesting a will on the grounds of fraud can be difficult because it can be hard to gather sufficient evidence.

What happens if a will is proven invalid?

If a will is declared to be invalid, the persons estate will be distributed according to a previous will.

If there is no previous will, the estate will be distributed to the nearest descendants or relatives according to the rules of intestacy. The rules of intestacy dictate who should receive a deceased persons money and possessions if there is no

I was relying on the inheritance for financial support

If you were financially dependent on the person who has died, you may be able to make a claim under the Inheritance Act.

The Inheritance Act is a law to protect people who were financially dependent on another person who has recently died. If you still rely on that financial support to fund your living expenses, but were not provided for in the will, you can apply to the courts who may award you with a greater share of the inheritance.

The courts will assess your circumstances and award you with sufficient inheritance to ensure that you are reasonably provided for. This is known as 'reasonable financial provision'.

Inheritance act claims do not completely overturn a persons will, the courts simply rule that the money and possessions are distributed differently to the current terms. It is very rare that Inheritance Act claims are taken to court – the beneficiaries would normally reach an agreement via mediation, and the terms of the will are updated accordingly with a 'deed of variation'.

Do I need financial provision?

The courts will consider a number of different factors when deciding if you require financial provision, and establishing how much you require.

These can include:

- Your current financial income and resources.
- The likely needs you will require in the foreseeable future.
- The financial resources and needs of other beneficiaries.
- The size and nature of the estate.
- Any special physical or mental heath needs of the applicant.

Who can apply for provision under the Inheritance act?

People with the following relationships to the deceased can claim for reasonable financial provision:

- Spouses or civil partners
- Former spouses or civil partners
- Cohabitees (People may not be married but can demonstrate a shared living arrangement as if husband and wife)
- Children of the deceased person
- Financial dependents (People who can demonstrate a continuing financial reliance on the deceased person)

I am unhappy with the handling of the estate

When a person dies, their finances, property and possessions are consolidated and distributed to the beneficiaries according to their will. This this administrative procedure is called probate, and is overseen by the Executors of the will. The executors are appointed when a person writes their will, and they can be anyone of their choosing.

This administrative procedure is is usually straightforward, but sometimes disagreements over the handling of the estate and distribution of the inheritance can arise between the executors and beneficiaries. These are known as 'estate administration disputes'.

Executor duties

Executors should act in the best interests of the estate and beneficiaries during the administration, and their responsibilities include:

- Registering the death and arranging the funeral
- Valuing the estate
- Reporting relevant information to HMRC and settling any inheritance tax
- Applying for probate
- Collecting and valuing all assets
- Keeping estate accounts
- Settling outstanding debts and liabilities
- Distributing the estate amongst the beneficiaries

Typical causes of estate administration disputes

If these responsibilities are not carried out appropriately, it can lead to disputes between executors and beneficiaries. Disputes can arise for the following reasons:

- Delays in the estate administration
- Disagreements over how the assets should be distributed
- Lack of clarity and transparency of the terms of a will or the handling of the estate.
- Incorrect distributions being made.
- Failure to fulfil the executors duties
- Misuse of estate funds

These disputes can bring the estate administration to a standstill, and should be resolved as quickly as possible to reduce conflict and costs. Legal action can be taken to force executors to carry out their duties or in some case, remove an executor from an estate.

There is no will

When someone dies ‘intestate’, it means that they died without leaving a valid will. It might be that they never made a will, or that the one they did make wasn’t properly written.

When there is no will, the persons money, possessions and other assets are distributed to surviving spouses, children, direct descendants, or other close relatives under the rules of intestacy.

Who inherits the estate?

The people who inherit the deceased persons money and assets are as follows:

- Married partners
- Children
- Other direct descendants and close relatives

The shares of money and assets are split between these people according to the the intestacy rules.

Disputing inheritance when there is no will

Often, the rules of intestacy do not work for the families left behind. It might be that people who should rightfully receive inheritance because of their relationship to the deceased person are not included in the intestacy rules, or perhaps there are children under 18 who have inherited parts of the estate that the surviving spouse needs. If this is the case, there are different options.

Varying the terms of intestacy

Whilst Intestacy Rules are strict, it is possible to change the effect of them if ALL the beneficiaries who are entitled agree and consent to change how the estate is divided to a different arrangement.

This agreement to vary needs to be dealt with by a legal document known as a Deed of Variation. It is important to take legal advice in these circumstances.

Challenging the terms of intestacy under the Inheritance Act

The Inheritance Act gives the courts power to vary the terms of intestacy to provide reasonable financial provision to a qualifying person. For example, if the rules of intestacy mean that a person who was financially dependent on the deceased no longer has that support, the courts can assess the needs of that person and change the inheritance arrangements

Steps of an inheritance dispute

Inheritance disputes are complicated and sensitive situations, often involving unwelcome disagreements with family members.

Deciding on the best course of action should not be rushed, and you should take the time to consider the facts, and where possible, communicate with the other parties to reach a resolution.

If you have exhausted all attempts to resolve the situation, and would like to get legal assistance, these are the typical steps of an inheritance dispute:

1. Free assessment and fact finding

Your circumstances will be examined by a specialist inheritance dispute lawyer, who will give you a detailed assessment of your case based on the evidence you have. This includes fact finding to gather as much evidence as possible, and advice on the best course of action

They will advise on:

- Your legal standing and whether you have the right to make a claim,
- The strength of your claim, and the likelihood of the claim being successful
- The likely costs, and whether the financial gain will be worthwhile spending money on legal action
- The possible pitfalls and problems you may face
- The different options you can pursue, and the likelihood of their success

At IDR Law, we strongly believe in making the best decisions for our clients. We will only recommend taking action if we a confident of a successful outcome. We advise our clients with complete transparency so they can make the best informed decisions for their circumstances.

2. Deciding on a course of action

If you decide to proceed with legal action based, the next step is establishing the best course of action and signing an agreement. During this stage we will:

- Agreeing on an appropriate course of action,
- Outline the likely costs
- Establishing which funding options are available for your circumstances ,
- Sign an agreement to proceed.

3. Legal representation

Legal representation varies from case to case based on the circumstances, but typically begins with gathering evidence and/or communicating with other parties. From this point, we will keep you informed at every step of the way, and involve you in all decisions throughout the legal process.

4. Mediation

When pursuing action through the courts, costs can quickly add up, so we firmly believe in resolving disputes through mediation. 99% of our case are resolved out of court.

Mediation is a way of sorting any differences between disputing parties, with the help of a neutral third person who won't take sides. The third person is called a mediator. They can help you reach an agreement about issues with inheritance.

Mediation provides a private forum in which the disputing parties can better understand each other's position and then work together with the assistance of the mediator to explore options for settling the dispute.

On the day of a mediation, the disputing parties attend with their solicitors and work with the help of the mediator to work towards a negotiated settlement of the dispute.

Time limits

Depending on the type of dispute, there can be different time limits to legally challenge inheritance. Some disputes, such as will validity disputes, have no specific time limit, but whatever the circumstances it is important to take advice as soon as possible. The longer the time from a persons death, the harder it can be to dispute inheritance, for various reasons:

Gathering evidence

It can be difficult to gather enough evidence to support your case because everything is old. Witnesses may have died, or will files and other documents may have been destroyed.

Overturning previously settled cases

It can be difficult to challenge the administration of an estate that was carried out and settled a long time ago, if it was considered to have been carried out correctly and in good faith at the time.

The courts may be reluctant to overturn or interfere with a case that was considered settled, and all decisions made around the estate were considered correct.

Legal time limits

Claims for financial provision under the Inheritance Act have a six month time limit from the date of probate to bring a claim. There is then a further four months to enter the claim, giving a ten month period in total.

If this date passes, any future claims would require permission from the courts to bring a claim. The courts would consider whether the was viable reason to bring a claim outside of the time limit.

Halting probate with a caveat

For will disputes and estate administration disputes, it can be easier to reach a resolution before the inheritance has been dispersed. If you have a valid reason to question the will or the handling of the estate, you can halt probate proceedings by lodging a caveat.

A caveat forces the halting of the probate process until the dispute has been resolved between the

Costs & funding

Legal costs and funding legal action can be a significant concern for people facing inheritance disputes. There are a range of funding options available depending on the circumstances of your situation.

How much does an inheritance dispute cost?

Legally disputing inheritance can be a costly process, depending on the circumstances of the case. Because of the wide variation of work required from case to case, it is difficult to give an average cost.

The cost can vary depending on how quickly the dispute is settled. If the initial letter detailing the reason for challenging the inheritance is accepted by the other party, then costs will remain lower. If the disagreement with the other parties continues, time and costs can increase with further correspondence or mediation.

We believe in taking a responsible approach to pursuing legal action, and we do not proceed with legal action unless we are confident the financial gain is worth the legal costs.

Funding options

There are a range of funding options available depending on the circumstances of your situation, and these options are offered based on careful assessment of your case.

Deferred payment

With deferred payment, you are not invoiced until a pre-defined point in your case; for example, when settlement is reached or a court order has been obtained. Once the pre-defined point has been reached, we will have a much clearer idea of the likelihood of success, and the size of any potential financial settlement or award.

No win, no fee

We consider this approach where there are no viable alternatives for our client and the case is appropriate. We do not proceed with legal action unless we are confident the financial gain is worth the legal costs, and as such, this option is only offered if there is a high likelihood of a successful outcome that is worth the estimated legal costs.

Litigation funding

Litigation funding is when the legal costs are covered with a finance agreement. Litigation funders will look at the facts of the case, the merits and what a ‘worst case scenario’ might look like. If approved, the litigation funder will set a fund or confirm the total amount which can be advanced from your inheritance.