

# will and inheritance disputes

How money and property are divided when loved ones die is a common cause of arguments amongst families. The population is ageing and our lives are increasingly complicated ranging from domestic arrangements to problems with mental health. People also have a greater awareness of their legal rights. Net worth and the value of estates has grown as a result of the property boom and there is more money around for people to argue about.

Wills can be challenged by disappointed would-be beneficiaries for a variety of reasons including lack of proper formalities, lack of testamentary capacity, lack of knowledge and approval, undue influence and fraud. The following will help you identify any risks or issues that might arise in relation to your own will or those of loved ones.

## formalities

English wills must be signed and witnessed by two people. The witnesses should actually witness the testator signing the will and they should not be beneficiaries. If a will is successfully challenged and there is no previous valid will then the intestacy rules will apply.

## lack of capacity

This is a growth area as people are living longer and there are more cases of dementia. It is essential that a person making a will understands what they are doing and the extent of the property they are disposing of. If a testator is not of sound mind at the time the will is executed it will be invalid. Solicitors are therefore advised when dealing with an elderly or seriously ill client to get their will witnessed or approved by a medical practitioner as a precaution. The courts are more prepared to find solicitors liable to an estate if they fail to get the will witnessed and a claim then arises which reduces the value of the estate.

## undue influence

There are an increasing number of cases involving allegations of undue influence and the Court will not uphold the validity of a will if it is the result of undue influence. To make a valid will a person must be a free agent and

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free from improper influence. However as the person making the allegation of undue influence must prove it it can be a difficult allegation to sustain since the primary witness, the deceased, is not able to assist the Court.

### fraud or forgery

Fraud also invalidates a will as the mind of the person making the will does not go with the document signed. The forging of a will usually involves the typing or printing of the main parts and then the forging of the signatures of the testator and witnesses. Evidence of forgery usually requires evidence from a handwriting expert unless the person who has committed the fraud confesses.

Knights solicitors llp act for Personal Representatives, beneficiaries, trustees and dependants. We try to use a full range of solutions in particular alternative dispute resolution and where possible encourage the use of the same legal team where parties have a common interest. Knights solicitors llp also deal with claims under the Inheritance (Provision for Family and Dependants) Act 1975 and a brochure on the 1975 Act is available on request.

### get in touch

To find out more about what we can do for you contact:

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