



Chadwick Lawrence

Yorkshire's Legal People

Inheritance (Provision for Family and
Dependants) Act 1975

The Inheritance (Provision for Family and Dependants) Act 1975 enables certain categories of applicant to claim financial provision out of an estate for maintenance, or if the applicant is a spouse of civil partner, for maintenance or otherwise. The decision to award is discretionary determined by the Court in accordance with statutory factors which must be applied to each case to ascertain whether it is fair to make an award and deprive a beneficiary of their entitlement under the Last Will and Testament or Intestacy Rules. The decision to award is therefore fact-dependent in each case and as such, the outcome of a case is difficult to foresee due to the wide discretionary system.

It is important to understand that there is no automatic right to claim and the discretionary system does not guarantee claimants an award. Making a Will if you wish to exclude a family member is of upmost importance to set out in depth reasons for excluding a person, so that the Court are inclined to take your wishes into account.

What can I do to reduce the risk of a successful claim against my estate?

To reduce the risk of a successful claim under the act, we advise that an individual revisit their Will every five years or where there has been a significant change to family or financial circumstances to ensure that the same still accords with their wishes. Further, marriage and divorce impact a Will and the position on Intestacy (where one dies without a Will) for a cohabitant is inherently weak, thus in a change of circumstances, revisiting a Will is vital. Also, where one has children from a previous marriage, making a Will is essential to ensure such children inherit without having to claim under the act.

Placing a clause in the Will preventing another from claiming under the act is void. However, including a statement in your Will explaining why provision has not been made for a certain person is advisable as the Court may take this into account when determining whether to make an award. This will lay down your clear intentions and is beneficial for peace of mind.



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To prevent such claims arising after death or to safeguard the estate so far as possible against successful claims, it is important that you seek legal advice. For advice on your position, contact our specialist Wills and Probate team on 0800 015 0340 to arrange to see a member of our team at any of our offices across West Yorkshire.

If you wish to challenge an estate for provision yourself, or require advice if another is claiming on an estate that you have an interest in, our experienced Contentious probate team can also assist in providing specialist advice.



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