

Key Considerations for Anyone Involved in an Estate or Trust Dispute

-  **The Will and Earlier Wills**

If possible, obtain a copy of the most recent Will and details of any earlier Wills. Differences between versions may help explain how the deceased's intentions changed and whether further investigation is required.
-  **Why You Are Concerned About the Will**

Be clear about what has caused you to question the Will. For example, concerns may relate to the deceased's mental capacity, unusual changes shortly before death, pressure from another person, the circumstances in which the Will was signed or whether it accurately reflected what you understood the deceased's wishes to be.

Formal probate proceedings can involve allegations that a Will was not properly executed, that the deceased lacked testamentary capacity or that the Will resulted from undue influence or fraud.
-  **The Date Probate Was Granted**

Establish whether a Grant of Probate or Letters of Administration has already been issued and, if possible, the date.

This is particularly important for claims under the Inheritance (Provision for Family and Dependants) Act 1975. Such claims ordinarily need to be brought within six months of the date on which representation is first taken out, unless the court gives permission for a later claim.
-  **Relevant Correspondence and Documents**

Keep copies of letters, emails, messages, estate accounts, trust documents and correspondence with executors, trustees or other beneficiaries. These can help establish both the history of the disagreement and the positions already taken by those involved.

 Whether the Estate Has Been Distributed

Find out whether executors have begun distributing assets to beneficiaries. If there is a genuine dispute over the validity of a Will or entitlement to administer an estate, early action may be important before assets are distributed.

Where probate has not yet been granted, it may in appropriate circumstances be possible to enter a caveat which temporarily prevents a Grant being issued while the dispute is addressed. A caveat initially lasts for six months and can be extended.

 Your Relationship with the Deceased

Explain your relationship with the person who died and whether you were financially dependent upon them.

This can be especially important where you are considering a claim under the Inheritance (Provision for Family and Dependants) Act 1975, which allows certain categories of family member and dependant to seek financial provision from an estate.

 Your Financial Circumstances

If you believe the estate has failed to make reasonable financial provision for you, prepare an outline of your income, assets, liabilities, housing position and ongoing financial needs. This information may be relevant when assessing an Inheritance Act claim.

 Concerns About an Executor or Trustee

Make a note of the conduct that concerns you. This might include unexplained delays, a lack of information, failure to account for assets, suspected conflicts of interest or concerns that assets are being handled incorrectly.

The High Court has powers in appropriate circumstances to remove or substitute personal representatives responsible for administering an estate.

 **What Outcome Do You Want?**

Consider what you would regard as a satisfactory resolution. You may want a Will investigated, financial provision from an estate, information from an executor, the replacement of a trustee or simply an agreement that enables the estate to be administered. Understanding your objective helps ensure that the legal strategy remains proportionate to what you are trying to achieve.



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