

“ Plain speaking legal advice ”

**No Contest When it Comes to
Making or Reviewing Your Will**

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This publication is written as a general guide only. It is not intended to contain definitive legal advice, which should be sought as appropriate in relation to a particular matter.

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The High Court has recently published statistics showing a significant rise in the number of court proceedings brought by claimants unhappy with the inheritance they have been left by family and friends.

In 2007 there were just 43 claims but by 2008 this had nearly doubled to 80 and is expected to reach over 100 claims when statistics for 2009 are published later this year*.

The steady rise of litigation is just one side, there are then the numerous disputes that don't make it to court but get settled between the parties before proceedings start.

So why are problems occurring and should you be bothered?

There is no one answer but a number of reasons for increased disputes, all of which emphasise the need to have your Will properly drafted by a Probate lawyer, and if your circumstances change, to have your Will reviewed by your lawyer.

Most commonly, people just neglect to make a Will and the estate is then distributed according to the intestacy rules. The intestacy rules are notoriously unfair, providing a strict pecking order for entitlement which may not reflect your actual family situation. For example, the rules exclude unmarried couples, so if you would like your partner to inherit on your death then a Will needs to be prepared. The rules also fail to consider any dependant relatives you may have, such as children under 18, elderly relatives or relatives with a disability.

If your dependants have not been provided for then they have a legal right to apply to the courts to be paid a proportion of the estate.

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Another reason for obtaining the advice of a Probate lawyer is that they can help you to reduce the amount of inheritance tax you pay on your estate and can advise on any trusts that need to be set up in the Will for minors or other dependant relatives. Your estate doesn't have to be large to fall liable to tax and therefore proper planning can help to preserve your assets from the taxman. The intestacy rules offer no opportunity for tax planning.

Even if you have a Will your family circumstance may have changed since it was drafted. You may have divorced, remarried and have a new family. Disputes can arise if your new or existing family are not provided for in your Will. If the matter is taken to court then the cost of litigation will eat into the estate.

The sensible course of action is to instruct a Probate lawyer to write or review your Will to avoid any uncertainty and the subsequent cost and disruption this will cause to your estate.

Herrington & Carmichael has one of the largest Wills & Probate teams in the local area. Unlike commercial Will Writers we have specialists in UK inheritance tax law and are members of the Surrey Committee for Solicitors for the Elderly, the Society of Trust & Estate Practitioners and the Law Society Probate Section. You can rest assured that our fees are highly competitive, if you have an existing Will then in many cases we will only charge if your Will needs to be changed, and we will often provide home visits.

For further information please contact one of our team at our Camberley or Wokingham offices on 01276-686222

*Financial Times, 13 January 2010.

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