

# WILL DISPUTES

A Step-by-Step Guide

How the Will Dispute  
Process Works in England  
and Wales



NJS Law


Disputes over **wills** and **inheritance** can arise at an already difficult time for families. The death of a loved one often brings **grief, uncertainty,** and **practical concerns** about managing the estate. When disagreements occur about a will, the situation can quickly become both **legally** and **emotionally complex**. A will dispute usually arises when someone believes that a will is invalid, does not reflect the **true wishes** of the person who made it, or fails to provide reasonable financial provision to someone who depended on the deceased.

Many people assume that once a will is written it cannot be challenged. Others worry that questioning a will may create **conflict** within the family or that they may not have the legal right to raise concerns. It is also common for individuals to feel uncertain about how the **probate process** works or whether there are **time limits** for taking action.

In reality, the law in England and Wales allows wills to be challenged in **certain circumstances**. These disputes are commonly referred to as “will disputes”, “probate disputes”, or “contentious probate”.

This guide explains how will disputes work, the most common reasons a will may be challenged, and what happens at each stage of the process — from identifying **potential concerns** through to **resolving** the dispute or bringing a claim before the court.

# WHY WILL DISPUTES ARISE



Wills are intended to provide **clarity** about how a person's estate should be distributed after their death. In most cases they **succeed** in doing exactly that. However, disputes can arise where **family members** or **dependants** believe something has gone wrong in the preparation of the will or in the way the estate is being administered.

Sometimes the dispute arises simply because the contents of the will come as a **surprise**. A family member may have expected to inherit but finds they have been **excluded** or **left** with a smaller share than anticipated.

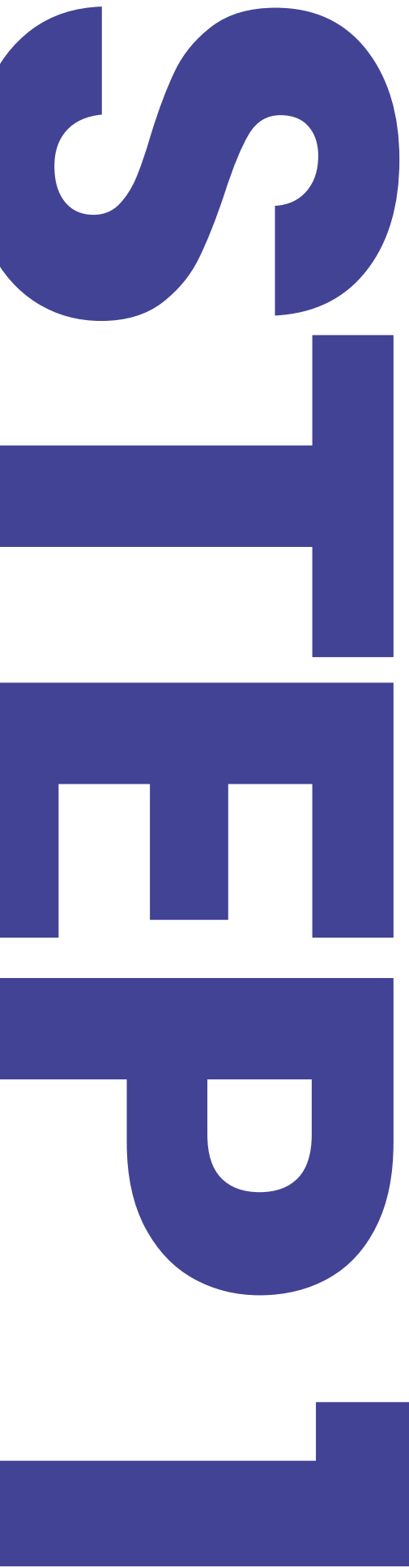
# WHY WILL DISPUTES ARISE

In other cases, there may be **genuine concerns** that the will does not reflect the deceased person's **true wishes**. This might occur where the will was made shortly before death, where the deceased was suffering from **illness**, or where a particular individual appears to have **benefited unexpectedly**.

Common situations that may lead to a will dispute include:

- A close family member being **unexpectedly excluded** from the will
- Concerns that the person making the will was **vulnerable** and **lacked capacity**
- Allegations that someone pressured the deceased to change their will
- Doubts about whether the will was properly **signed** and **witnessed**
- Dependents not receiving reasonable **financial support** from the estate
- Disagreements about how executors are administering the estate

At NJS Law, we regularly advise clients who are unsure whether a will is **valid** or who believe they have been unfairly left out of an inheritance.



## Understanding Whether You Can Challenge a Will

Not every disagreement about a will leads to a valid legal claim. The law allows wills to be challenged only on specific legal grounds.

# Lack of testamentary capacity

A person making a will must have the **mental capacity** to understand what they are doing at the time the will is created.

In legal terms, they must understand:


- That they are making a will
- The **nature** and **value** of their estate
- Who might reasonably expect to **benefit** from their estate

This principle comes from the long-established legal test in the case of **Banks v Goodfellow**.

If a person was suffering from conditions such as **dementia**, **severe illness**, or **cognitive impairment** when the will was made, questions may arise about whether they had the capacity to make a valid will.

Medical records, witness statements, and solicitor notes from the time with will was executed may all play an **important role** in assessing capacity.





# Undue influence

A will must reflect the **free** and **independent** wishes of the person making it.

If someone exerted **pressure**, **coercion**, or **manipulation** to influence the contents of the will, the will may be challenged on the basis of undue influence.

These cases often arise where:

- A vulnerable person was **isolated** from family members
- A **carer** or **relative** had significant control over the person's affairs
- The will changed suddenly in **favour** of one individual

Proving undue influence can be **complex** and requires **evidence**.

# Lack of knowledge and approval

Even where a will appears **properly signed**, it must be shown that the person making the will **understood** and **approved** its contents.

If a will was prepared without proper explanation, or if the deceased did not understand what they were signing, questions may arise about whether the will truly reflects **their wishes**.



# Failure to follow the legal formalities

The law requires wills to meet certain **formal requirements** in order to be valid.

- Be in **writing**
- Be **signed** by the person making the will
- Be witnessed by two **independent witnesses** present at the same time

If these requirements **were not** followed correctly, the will may be invalid.

# Forgery or fraud

In rare situations, concerns may arise that a will has been **forged** or **altered**. Examples might include:

- A **forged** signature
- Pages added **after** the will was signed
- A will being created without the deceased's knowledge

These cases may require **expert handwriting evidence** or **forensic investigation**.

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## Claims for Reasonable Financial Provision

Even where a will is legally valid, certain individuals may still be able to bring a claim if they were not adequately provided for.

# WHO CAN BRING A CLAIM

The following individuals may be eligible to bring a claim under the **Inheritance Act**:

- A spouse or civil partner
- A former spouse who has not remarried
- A child of the deceased
- A person treated as a child of the family
- A person who was financially dependent on the deceased

# FACTORS THE COURT MAY CONSIDER

When assessing these claims, the court may look at:

- The **financial needs** of the claimant
- The **size** and **nature** of the estate
- The relationship between the **claimant** and the **deceased**
- The **needs** of other beneficiaries
- Any **obligations** the deceased had toward the claimant



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## Gathering Evidence |

Before deciding whether to proceed, a solicitor will usually investigate the circumstances surrounding the creation of the will.

# Important evidence may include

Medical Records

The solicitor's will preparation file

Witness statements

Financial documents

Correspondence relating to the will

# THE SOLICITOR'S FILE

If a solicitor prepared the will, their file may contain **valuable information** such as:

- **Attendance notes** from meetings with the deceased
- Instructions provided by the deceased
- Records of discussions about beneficiaries
- **Assessments** of capacity

These documents can help clarify whether the will was prepared **properly**.

# MEDICAL EVIDENCE

Where capacity is in question, medical records may be obtained to assess the deceased's **health** at the time the will was made.

In **some** cases, independent medical experts may be instructed to provide opinions based on those records.

STEP 4

## Starting the Legal Process |

If concerns about a will remain after the initial investigation, legal action may be considered.

The process usually begins with:

- Obtaining a **copy** of the will
- Reviewing **probate documents**
- Gathering relevant evidence
- **Communicating** with the executors or beneficiaries


In some cases, a solicitor may enter a caveat at the **Probate Registry**.



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## Mediation and Negotiation |

Many will disputes are  
resolved through  
negotiation rather than  
court proceedings.



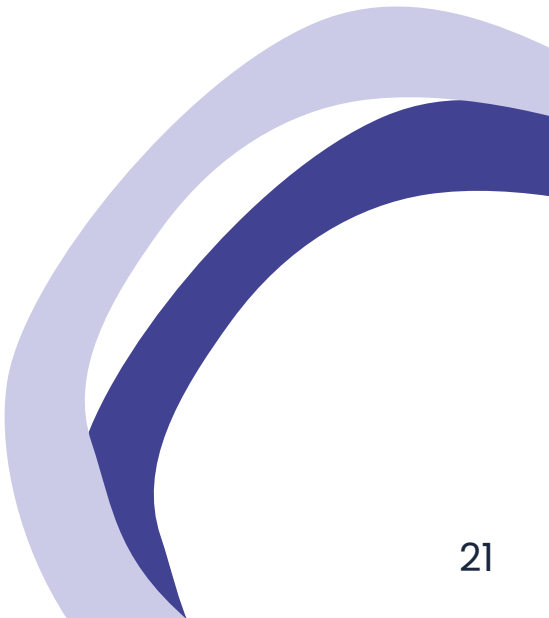
Courts actively encourage parties to attempt mediation **before** proceeding to trial.

Mediation involves an **independent mediator** who helps the parties explore possible **settlement options**.

Advantages of mediation include:

- Faster resolution
- Reduced legal costs
- Avoiding the stress of litigation

Many inheritance disputes are resolved through mediation once the strengths and weaknesses of each party's case become **clear**.



Settle

## Court Proceedings and Outcomes

If settlement cannot be reached, the dispute may proceed to court.

Possible outcomes may include:

- The will being declared **invalid**
- An earlier will being recognised as valid
- The estate being distributed under **intestacy rules**
- Financial provision being awarded to a claimant

Court proceedings can be **complex** and **lengthy**, which is why many disputes resolve beforehand.

# TIME LIMITS FOR WILL DISPUTES

## Inheritance Act claims

Claims for financial provision under the Inheritance Act must usually be brought within **six months** of the grant of probate.

This means the claim should be issued at court within six months **from the date** probate is granted to the executors of the estate.

If this deadline is **missed**, permission from **the court** will be required to proceed with the claim.



# TIME LIMITS FOR WILL DISPUTES

## Challenges to the validity of a will

Claims challenging the validity of a will, such as those involving **lack of capacity**, undue influence, or forgery, do not always have a **strict limitation period**.

However, delays can make claims significantly more **difficult** to pursue, particularly if assets from the estate have **already** been distributed.

For this reason, it is generally advisable to seek legal advice **as soon as concerns arise**.



# CONCLUSION

Will disputes can be emotionally challenging, particularly when they involve close family members.

However, where there are **genuine concerns** about the **validity** of a will or whether someone has been unfairly left without **financial support**, legal advice can help **clarify** the situation.

Seeking advice does not mean that legal action **must follow**. In many cases, early discussion and negotiation can **resolve concerns** without the need for court proceedings.

Understanding your **rights** and the **legal framework** surrounding inheritance can help you make informed decisions during what is often a difficult time.

Inheritance disputes often arise during periods of **grief** and **uncertainty**. At NJS Law, we understand that these cases require both legal expertise and a careful, sensitive approach.

Our role is to provide **clear advice** and **practical guidance** so that clients can make informed decisions about **how** to proceed.

We begin by understanding the background to the dispute, including the **family circumstances**, the **contents** of the will, and the **financial position** of the estate.

Where **appropriate**, we investigate the **preparation** of the will, obtain **relevant** documentation, and assess whether a claim may have legal merit.

Successful will disputes rely on **careful preparation** and **strong evidence**. Our team works to gather and analyse the information needed to present a clear and structured case.

Throughout the process we aim to communicate openly and honestly with our clients. We explain the **legal issues** involved, provide **realistic advice** about prospects, and ensure that decisions remain firmly in your hands.

Contacting NJS Law **does not** commit you to bringing a claim. Many clients simply wish to understand **their rights** and explore their options before deciding **how to proceed**.

If you are concerned about a will or inheritance, we are here to provide **clear advice** and **practical support**.

# WHY CHOOSE NJS LAW

## What is a will dispute?

A will dispute arises when someone challenges the **validity of a will** or seeks **financial provision** from the estate. These disputes often involve concerns about **capacity, undue influence**, or whether the will provides **reasonable** financial support to dependants.

## Can a will really be challenged

**Yes.** A will can be challenged on **specific legal grounds**, including lack of capacity, undue influence, failure to follow legal formalities, or fraud.

## Who can challenge a will

The right to challenge a will depends on the type of claim. Family members, spouses, children, dependants, and sometimes individuals treated as children of the family may have legal standing to bring claims.

## What happens if a will is declared invalid

If a will is declared **invalid**, the estate will be distributed according to an earlier valid will.

## What are the time limits for contesting a will

Inheritance Act claims must usually be issued at court within **six months** of the **grant of probate**. Other claims relating to the validity of a will may not have a strict limitation period but should be brought **as soon as possible**.

## How long do will disputes take?

Some disputes resolve within a **few months** through **negotiation** or **mediation**, while others may take longer if court proceedings are required.

## Will the case go to court?

Many will disputes are resolved through **negotiation** or **mediation** before reaching court. However, court proceedings may be necessary if the parties cannot reach an agreement.

## How do I start a will dispute claim

The first step is usually to **seek legal advice**. A solicitor can review the will, assess whether there may be valid grounds for a challenge, and explain the **available options**.

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