



Left out of a Will?

I've been left out of a loved one's will – what can i do?

Each year, millions of people experience issues with a Will that has been left by a loved one, and what they have or haven't received from it. It can be tricky to deal with, but it is important to understand the steps that can be taken.

Rebecca Harbron Gray, head of Wills, Trust and Probate at Gordon Brown Law Firm LLP (GBLF), addresses two scenarios that may arise following the death of a loved one and explains what can and can't be done if an individual feels they have been unfairly left out of a Will.

In the first instance, Andy, a young man from Gateshead, has lost his estranged father, and last surviving parent. He has recently found out that his father has left him out of his Will, but has included his brother, with the remaining money to be shared out between several charities.

Although Andy appreciates that he was not particularly close to his father, he did expect to be included in the Will, and would like to know if he can contest the Will.

Andy asks: "What should I do if I have been left out of my estranged father's Will?"

The Inheritance (Provision for Family and Dependants) Act 1975 ("the Act") confers the right of a child of a deceased parent to apply under the Act if the Will of the deceased (or an intestacy) does not make reasonable financial provision for him (or her).

Reasonable financial provision means "such financial provision as it would be reasonable in all the circumstances of the case for the applicant to receive for his (or her) maintenance." Although there is no express definition of the word "maintenance" it is generally such payments which, directly or indirectly, will enable the applicant in future to discharge the cost of his (or her) daily living at whatever standard of living is appropriate to him (or her).

If a Court decides that some form of maintenance is required, it has wide ranging powers to meet this requirement. It will take into account the financial resources and financial needs of Andy, any other applicant and any beneficiary, as well as any obligation and responsibilities the deceased had towards Andy or to any other applicant or beneficiary.

The Court will also take into account the size and nature of the net estate and any physical or mental disability that Andy, as well as any other applicant or beneficiary, may have. Any other matter which the Court considers relevant will also be taken into account.

The Court of Appeal recently confirmed in a case called *Ilott v Mitson* that estrangement is no bar to a claim to maintenance and so Andy might want to take further advice on his particular circumstances.



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In the second scenario, Sarah, a young woman from Blyth, had been in a relationship with her partner for 15 years, although they never married or lived together. After her boyfriend's passing, she discovered that she was not named in his Will. As she no longer has her partner's financial support, is she entitled to pursue a claim?

Sarah asks: "Am I entitled to pursue a claim if I have been left out of my deceased long-term partner's Will?"

I'm afraid the answer would appear to be no. Although unmarried persons do have the right to bring a claim against the estate of a now deceased partner, in order to do so you must have lived together for the two years immediately prior to the death.

As Sarah and her boyfriend never lived together, I'm afraid she would not be able to bring a claim.

For more advice on contesting a Will, get in touch with GBLF's friendly Wills, Trust and Probate Team by calling 0191 388 1778