

## A 1975 Act claim ‘with superficial attraction’ fails



In the recent case of *Wellesley v Wellesley* [2019] the court has dismissed a claim under the Inheritance (Provision for Family and Dependants) Act 1975, despite the apparent strength of the claimant’s argument.

By way of brief summary, the deceased, a wealthy aristocrat, had left £20,000 of his £1.3 million estate to his daughter, the claimant, with the remainder to his fourth wife, his other children and his step children. The claimant was dependent on benefits, suffered from ADHD and she asserted that ‘living within [her] means [was] a very meagre existence’. In contrast to this, the other beneficiaries of her father’s estate were all in a better financial position than she was. Deputy Master Linwood even stated that

*‘the stark facts of a minor bequest in the context of substantial (by proportion) estate to an adult disabled child living in needy circumstances, where other beneficiaries are substantially better off without any legacy under the will, has a superficial attraction’.*

Nevertheless, there were additional factors which worked against the claimant’s claim. In particular, the court found that she had been estranged from her father by some 30 years and that the estrangement was as a result of her conduct.

Furthermore, while she was in a difficult financial position, DM Linwood concluded that she ‘can and does live within her means’. It was argued by the claimant’s barrister that it was in the public’s interest to reducing the claimant’s reliance on benefits, however DM Linwood responded to this by stating that the ‘potential relief of a burden upon public funds’ was not a factor he was required to take into account.

It is clear from this case that potential claimants (and their practitioners) should be careful to consider all of the Section 3 factors under the 1975 Act (these are the factors that a court is required to consider when assessing



whether the provision to a claimant under a Will is reasonable) and not to put too much weight on one factor over another. In particular, the 'conduct of the applicant' (s.3(1)(g) 1975 Act) and the moral obligation to provide for the claimant should not be discounted. In addition, a claimant's financial 'needs' do not necessarily extend beyond meeting their immediate needs, even if that means they are only just making ends meet.



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