

## Claims by adult children in a post-*Ilot* landscape

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In [Ilot v Mitson \[2017\] UKSC 17](#), the Supreme Court signaled that a less generous approach would be taken towards adult children with independent financial means making claims under the Inheritance Act 1975. This article looks at various cases prior to this judgment, and the emerging landscape for disputes of this type.

In *Ilot*, the Supreme Court overturned an award of £143,000 to the adult claimant, reinstating an earlier award of £50,000. In Lord Hughes' leading judgment, he stressed the importance of testamentary freedom, holding that when considering reasonable financial provision, the Court should be cognizant that "*children play less part in building up the family assets than do spouses [and] are more likely to be self-supporting adults independent of their parents*".

In keeping with a line of authority dating back to *Re Coventry* [1980] Ch 461, Lord Hughes emphasised that an independent adult child would fail in their claim without '*something more*'. The Court of Appeal in that case said:

*"There must... be established some sort of moral claim by the applicant to be maintained by the deceased or at the expense of his estate beyond the mere fact of a blood relationship, some reason why it can be said that, in the circumstances, it is unreasonable that no or no greater provision was in fact made."*

The general trend in post-*Ilot* claims has been that smaller awards or no awards have become more common in the cases that go to trial. In the recent case of [Batstone v Batstone \[2022\] WTLR 835](#), an adult child claimant who had been disinherited by her father failed to gain any award against the estate. In making his judgment, HHJ Evans-Gordon noted that there had been a lengthy period of estrangement, that the claimant had lived independently for years without any maintenance from her father, and that her high rate of outgoings were not reasonably incurred costs. Furthermore, the estrangement did not give rise to any "*moral claim*" for the purpose of the test set out above.



One post-*Ilott* example where a claim has succeeded is in [Nahajec v Fowle \[2017\] WTLR 1071](#). This case also involved a disinherited daughter making a claim against her father's estate. Unlike the previous case however, the claimant lived what HHJ Saffman called a "*frugal existence*", with expenses incurred out of necessity, and proportionately reasonable. Furthermore, the claimant had aspirations to become a veterinary nurse, and required some capital to fund her training. This, and the fact that her estrangement was due to a father who was considered "*stubborn and intransigent*", provided the Court with "*something more*", and she was awarded £30,000.

## How we can help

These cases show examples of the developing body of case law on the Court's interpretation and application of the Section 3 factors under the 1975 Act. If you are defending a claim or considering pursuing one, our team of [inheritance dispute](#) solicitors are highly experienced in offering advice and creating the very best strategy for you.



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