

Court awards cost protection to the son of a deceased in pursuing a claim against his siblings



In the recent case of *Dhillon v Dhillon*, the court made a *Beddoe* order in favour of one of three brothers in connection with a proposed claim against his siblings.

A *Beddoe* order, if granted to a party, enables them to pursue a claim on behalf of an estate/trust and, to the extent that those costs are not recovered from the defendants to that claim, those costs will come from the estate. If granted, it can provide a significant tactical advantage over an opponent, particularly if they are a residuary beneficiary of an estate/trust; the more they dispute the matter, the greater the costs incurred on behalf of the estate, which will ultimately reduce the share of the estate they receive or are entitled to.

In *Dhillon v Dhillon*, under the terms of the deceased's will the claimant and the defendants were all appointed as his executors and equal beneficiaries. The claimant sought a *Beddoe* order in connection with proposed litigation over a c£530,000 sum (which the claimant asserts had been removed from the deceased's estate by one of his siblings and their wife before and after the deceased's death) as well as the removal and replacement of the executors with an independent professional. The defendants argued that a *Beddoe* application was inappropriate as they considered it to be a dispute between beneficiaries (and, accordingly, that the costs incurred by the claimant should not be considered a cost of the estate).

The court disagreed, finding that the claim to set aside lifetime transactions was a claim to be brought on behalf of the estate and was only a beneficiary dispute to the extent that the beneficiaries disagreed as to whether the claims should be pursued by the estate. The court found that the merits of the underlying proceedings were sufficiently strong to justify making the order and the claimant was authorised to pursue this claim on behalf of the estate. This was however subject to safeguards, including a review of the situation after disclosure and



inspection in the main claim. Separately, he would be directed to issue a claim for the removal and replacement (or passing over) of executors if the defendants did not agree to this.

If you would like any advice on how to best deal with a similar dispute, don't hesitate to contact one of our [specialist dispute resolution team](#).



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