

# Contentious Probate & Trusts



## Who we are

**David Wedgwood**  
Partner

**Clare Kelly**  
Solicitor

**Chris McNeill**  
Solicitor

We are members of the Association of Contentious Trusts and Probate Specialists.

## Find out more

Call us on 020 7940 4000  
Email [mail@anthonygold.co.uk](mailto:mail@anthonygold.co.uk)  
Or visit our website at  
[www.anthonygold.co.uk](http://www.anthonygold.co.uk)

## Anthony Gold Solicitors

The Counting House  
53 Tooley Street  
London Bridge City  
London, SE1 2QN

Lloyds Bank Chambers  
186 Streatham High Road  
London, SW16 1BG

169 Walworth Road  
London, SE17 1RW



**anthony gold**  
S O L I C I T O R S

## Contentious Probate

There can be no more difficult time to find oneself embroiled in a family dispute than when facing bereavement. At such times, tensions within any family can come to the fore, resulting in people behaving unreasonably. Our aim is to preserve family assets and minimise the disruption such disputes can cause within a family.

Most estates are administered smoothly, or need only a steer in the right direction. We can advise on the law as to who should have control of an estate and how an estate should be divided and managed. Although the rules are quite clear, sometimes there is a serious dispute, normally following allegations of wrong doing, which needs to be referred to the Courts. We have considerable expertise of such actions and the issues the Court will consider before making a decision.

We also have experience in challenging and defending the validity of a Will. This is a complex area of law where careful preparation is required, if a case is to be successful. The presentation of sufficient evidence to establish either the deceased's lack of capacity and/or undue influence by another, requires a clear understanding of the criteria that courts apply and the evidence available.

Sometimes, for whatever reason, insufficient provision is made for those left behind. The Courts will, in some circumstances, make an award from the deceased's assets to ensure adequate provision is made for dependents. These cases require a thorough analysis of the needs of the claimant, which have to be balanced against those of the other beneficiaries. Having done that we will then make an early assessment as to the merits of taking a claim.

We always advise clients to seek legal advice promptly so as to protect estate assets, for example though lodging a caveat. Furthermore, some statutory claims require the issue of court proceedings within six months.

### What we do....

Our lawyers have expertise in acting for both Claimants and those administering an estate, including:

- Preserving assets through promptly entering caveats (cautions).
- Clearing off cautions blocking probate.
- Taking probate claims to establish the appropriate personal representative of an estate.
- Taking and defending claims for breach of the fiduciary duty owed by the personal representatives managing an estate.

- Taking and defending Inheritance (Provision for Family & Dependents) Act claims seeking fair provision from an estate for family members or dependents.
- Acting for an estate in recovering assets.
- Taking probate claims to establish the division of assets, where English rules are in conflict with the rules applicable to a foreign probate.
- Considering claims against an estate that another has beneficial ownership of estate assets under the Trusts of Land (Appointment of Trustees) Act.
- Taking and defending claims challenging a Will on the basis of lack of capacity.
- Taking and defending claims challenging a Will on the basis of undue influence by another with a vested interest in the Will.
- Considering the effectiveness and validity of Wills on the basis of their content or manner of execution.
- Considering claims effecting estate assets on the basis of proprietary estoppel.

## Contentious Trust Claims

We have considerable experience in dealing with disputes involving trusts and their management. We can advise trustees as to their duty to administer the trust properly and fairly. We have advised large trusts as to beneficiaries rights, in disputes involving the interpretation of complex Trust Deeds. We have also successfully obtained Court declarations setting out the beneficial interests in small trusts with no written constitution at all.

### What we do...

- Taking and defending actions involving the fiduciary duties of trustees.
- Acting on applications to appoint a Receiver to replace Trustees.
- Acting for trusts in relation to recovery of trust assets.
- Advising pension funds on claims by fund members.
- Advising Trustees and clients as to applications to the Ombudsman or Regulator.
- Obtaining declarations as to the beneficial interest in property held under implied or constructive or resultant trusts.
- Applications under the Trusts of Land (Appointment of Trustees) Act.