

# Disinheriting a beneficiary in your Will

Family relationships can be complex. There are a variety of reasons why you may choose to leave someone out of your Will or leave them less than others.

Those who choose to disinherit a child might not always be driven by negative relationships. While being estranged from your child might certainly be reason to disinherit them, you might also do so in other situations such as:

- That child is well-off and doesn't need additional support.
- you already have given sufficient financial support to that child during your lifetime.
- if you have financially supported that child significantly more than other children you have, you might decide to leave that child little or nothing in your will.

In England you have full testamentary freedom to leave your assets to whom you choose. However, you should consider claims that can be made on your estate under The Inheritance (Provision for Family and Dependents) Act 1975 which provides for, amongst others, children to claim for reasonable financial provision.

To disinherit someone all you need to do is make a Will without reference to that person at all but to avoid an accusation that you lacked mental capacity and simply forgot about them you may choose to leave a letter (or statement) with the Will explaining your decision more fully.

Be aware that if you disinherit someone who would have expected to inherit from you, your Will is more likely to be legally challenged. There may even be accusations of undue influence or fraud levelled against the beneficiaries left in your Will.

If the person you are disinheriting is a dependent of yours, for example you pay towards their upkeep, or they rely on you financially, they can make a claim against your estate. The Inheritance (Provision for Family and Dependents) Act 1975 applies if you are domiciled in England & Wales. It also sets out who can claim, and the timescales for making a claim.

You should try do what you can to mitigate the chance of a successful challenge to your Will. If you believe the person being disinherited could challenge your Will there are various ways you can mitigate the risk.

If you do decide to disinherit any of your children, or leave them less, you should state your intention clearly in a letter that can be placed with your Will or amongst your papers. This gives you an opportunity to explain why you want to disinherit them from your perspective and it also may reduce conflict by clarifying your reasoning. There is no set way to draft the letter, but you should give details of the background and relationship, why you have not left them any money (or why you have left them less than others) and anything else you deem relevant. The letter should be signed and dated. If necessary, this letter can be used as evidence to help defend a claim made against your estate. There is of course no guarantee it will make a difference, but it is still better to leave a letter than not.