



Wills, Trusts  
& Tax

# Settling An Ex-Husband's Claim On Estate





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## Background:

Client was divorced from her husband and did not name him as a beneficiary in her Will. Following her death, he brought a claim against his ex-wife's estate for a share of her property. His claim was based on the fact that a 'consent order', made when he and his wife divorced, provided for him to receive a share of the property on her death.

## Challenges

The situation was complicated because the consent order did not specify how the sum should be calculated if the original property was sold and a new property purchased. In fact, our client had sold and purchased twice since the divorce and there was a dispute as to the value of the ex-husband's claim.

We were instructed by our client's grand-daughter, sole executor of the estate, to advise her on the matter, as the beneficiaries of the estate could not agree on how to deal with the ex-husband's claim.

We advised our client's grand-daughter that she should make an application to the court to determine the course of action to take, which would protect her from any claims from disgruntled beneficiaries.

Ordinarily, the typical course of action would be to apply to the court for a 'Beddoes order'. This would give the client the necessary authority to proceed with the substantive court application, with the legal costs being paid from the estate. This process would have been disproportionately expensive, however, given the value of the estate. We therefore devised an alternative solution.

## Solution

We obtained specialist advice from a barrister on the merits of ex-husband's claim, and agreed with the beneficiaries of the estate that we would follow the barrister's suggestion.

We then agreed a settlement figure with the ex-husband and drafted a settlement. The agreement contained a stipulation that no future claims could be brought against the estate. All parties signed the agreement. This provided our client's grand-daughter, as executor of the estate, with the necessary protection, without the need for two lengthy and costly court applications.

## Our Team:

Clive Pointon (partner), James Wallace (senior associate), John Devoy (litigation partner)