

Family Provision Applications

This fact sheet talks about Family Provision Applications. If someone close to you has died recently, then this information is for you.

What is a Family Provision Application?

When a person dies, the things they own (called their “**estate**”) are given to others.

Some people make a **Will** that lets others know what they want to happen to their estate after they die. When a person dies without a Will, the law says who should receive their estate.

Certain people can apply to the Court if they are not left any of the estate, or they might be entitled to more. This is called a “**Family Provision Application**”.

The Court can then decide what they are given. The Court can make a different decision to what the Will says or what the law would say if the person died without a Will.

How does the Court decide?

The Court thinks about what the person making the application needs for their support and maintenance, and if they should be given more. A person might need financial support so they have money for unexpected costs or to pay for things like their education, rent, travel, medical treatment, or care.

A lot of different things can affect the Court’s decision, such as:

- the person’s disabilities, health issues and age
- the person’s financial circumstances
- what the person who has died would have wanted
- the relationship the person had with the person who has died
- the needs of other people who may be given things from the estate.

Sometimes, the people who are affected by the Application all agree on what should happen. If everyone agrees, then the Court can take this into account when making their decision.



Who can make a Family Provision Application?

You can make a Family Provision Application if you are the deceased person's:



Spouse

A "spouse" means...

You are a person's "spouse" if you are:

- married,
- civil partners, or
- de facto partners.

You are a person's de facto partner if you had been living together as a couple for at least 2 years when they died.



A spouse can make a Family Provision Application.



Child

A "child" means...

You are a person's "child" if you are their:

- biological child,
- stepchild, or
- adopted child.



A child can make a Family Provision Application.



Dependant

A "dependant" means...

You are a person's "dependant" if you were receiving financial support from the person when they died, and you are also:

- a parent of that deceased person; or
- the parent of a child of that deceased person; or
- a person under the age of 18 years.

If you are the parent of a child of the deceased person, the child must be younger than 18 years old and still alive at the time their other parent died.



A dependant can make a Family Provision Application.

Timeframes

- You must give **notice** of your intention to make a Family Provision Application **within 6 months** of the person's death.
- You must make your Family Provision Application **within 9 months** of the person's death.

If you don't make your application in time, the Court might not consider your application.

Talk to your Trust Officer to find out more.