

Novitas
Loans



Contentious Probate

Counsel Opinion

Name of Borrower:

Name of Barrister:

Date:

Novitas require Counsel to address the following questions and provide the Opinion in this format.

1. Please advise as to the material facts (and any material facts which are either not known at this point or which are, or are likely to be, contested or subject to material change during the course of the proceedings) including the assets and liabilities of the deceased's estate.
2. Are there any issues known or expected as to the property which falls within the estate or other disputes relating to the estate?
3. Please advise as to the expected position for the Applicant under any Will or intestacy, whether any dispute is expected in relation to this and the effect on the Applicant's position of any such dispute.
4. Where the Applicant is expected to bring a claim other than under the 1975 Act ('the Act'), please identify this claim and advise as to the merits and likely range of outcomes.
5. Where the Applicant intends to bring proceedings which will involve a claim under the 1975 Act, please advise:
 - a. As to the Applicant's eligibility under section 1 of the Act; is the Applicant clearly within a particular limb of the Act and is there any material issue and/or risk relating to eligibility (whether factual or legal)?
 - b. Where the Applicant was cohabiting with the deceased, are there any issues expected relating to whether they were cohabiting in the manner and for the necessary period as required under the Act?
 - c. Are there any facts or circumstances which suggest that the domicile of the deceased in England and Wales may be in issue? If so please advise as to the merits on this.
 - d. Please advise whether, in counsel's opinion, reasonable financial provision was made for the Applicant by the deceased?
 - e. If reasonable financial provision was not made for the Applicant by the deceased, having regard to each of the section 3 factors:
 - i. Please advise on the potential remedies which the Court is likely to order
 - ii. Please advise as to the bracket of likely quantum of any such orders
 - f. Are there any facts or circumstances which suggest that the domicile of the Applicant may be other than England and Wales? If so please advise whether this is likely to have an impact on quantum?
6. Please advise generally as to any other facts or matters which appear to counsel to be material to the Applicant's expectations from the deceased's estate and the risks of the case.