



## **Inheritance & probate dispute mediation case study**

Inheritance and probate dispute mediation, the claimant claimed to be the executor named in the last will of her late mother whereby all assets, with a value of approximately £4,277,000 went to her. The defendants who were 3 other children of the deceased who would have benefited under earlier wills and codicils claimed that their late mother lacked testamentary capacity at the time of that last will, and that the previous will which benefitted all of them more or less equally should stand.

It was alleged that their younger sister the claimant had induced their mother into making and signing another will, even if she hadn't their late mother lacked testamentary capacity at the time anyway. Both camps blamed the other, alleging fraudulent activity, stealing of items, the list went on. Apparently over the years all of the children were given loans in cash for various things they wanted and required, 2 of the children had paid these back, and 2 had not. Items of furniture and jewellery had also been taken at some points by some of the siblings.

Although in a nursing home at the time of her death, reports from the late mother's physician showed she was fully aware of what she was doing, the issue then turned to whether she had been coerced under the duress of the claimant to make this new will. With little if any evidence to prove either way why this new will had been created, all parties were looking at a very expensive trial as well as a difficult time in enforcing their claims.

The estate had already been eaten away with the sizable legal fees that had been incurred to date, which would be paid out of the siblings individual respective shares of the estate, once the inheritance tax, legal fees to date, possible legal fees of a trial that would need to take place had been accounted for the estate was going to be much lighter than anticipated.

There were various items which the estate was made up of, some of the items the siblings argued over, some they did not, at one point the 3 defendants managed to get embroiled in an argument amongst themselves.

The items which were not in dispute were put to one side, the various items that were in dispute were thrashed out until there was a general consensus on who should get what. The previous loans were looked at, and out of the 4 siblings who had not repaid what they had borrowed it was agreed this would come out of their shares, equally any items of furniture and jewellery already taken, which should not have been came out of their respective shares.

Eventually an agreement was reached which split the estate according to who had already had items from the estate, including money not repaid, the remainder was divided in line with the shares that the parties felt were justifiable in accordance to the previous will as well as taking into account what they possibly could of got had this matter gone to trial.

## **Facts & figures**

- **The mediation took 1 day compared to the 2 years this inheritance and probate dispute had already gone on.**
- **The mediation cost each party £1400.00 each compared to the thousands they had already spent on legal fees and the thousands they would have had to spend had they continued with Court action.**