



Four legs good, two legs better?



By Miranda Marshall – Director at
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Every so often there is a Court case with all the right ingredients. It manages to attract the attention, indignation and delight of the popular media; to produce strong and differing opinions among the legal profession; and, to stir up bluster from the politicians. Ilott v Jackson is such a case.

The story goes like this. Heather Ilott was long-estranged from her mother Melita Jackson since leaving home in her teens to live with an 'unsuitable man'. To their credit, Mr and Mrs Ilott are still married and have 5 children together. They live on state benefits and have no assets.

Melita died in 2004, disinherited Heather and left her £486,000 estate to three animal charities. Heather brought a claim through the Courts for 'reasonable financial provision' under the Inheritance (Provision for Family and Dependents) Act 1975 ("1975 Act"). After fighting the case through the lower courts, Heather has been awarded £164,000 by the Court of Appeal. This means that she can buy her rented home and have £16,000 left over, to keep her below the benefits means-tested exempt sum. She will spend the rest of her life on benefits.

What annoys the politicians (particularly Lord Tebbit) is that 'the judges have been acting as God' and overturning Melita's very clearly expressed wishes. What disturbs the lawyers is that Heather had not been financially- dependent on Melita since she left home and that the reason for the success of the claim is purely on the basis of Heather's very low income. Arguably, the legal reasoning was flawed and the criteria set out by the 1975 Act were not applied properly. The popular media are treating it as a landmark case and love it for all the reasons one might expect.

So the big question is: How does this change things? The main point is that before this case adult, non-financially-dependent children were unlikely to succeed in a 1975 Act claim when disinherited. Now the door seems to have been pushed open for claims by disappointed adult children, especially those with little earning power and no real assets. Remember though, that the three charities did retain two-thirds of the estate; however, what is left after all the legal costs have been met out of the estate may be little indeed. The last I heard, there was even a chance of a further appeal. Charities have every reason to be worried that this case will reduce their inheritance windfalls as people think that leaving large sums to charity will invite claims and tie up their estates in litigation for years after their death. Taking good advice has never been more important.

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