

## Hawliad Profiant

### Nodiadau i'r hawlydd ar lenwi ffurflen hawlio

Darllenwch y cyfarwyddiadau hyn i gyd cyn dechrau llenwi'r ffurflen hawlio. Mae'r nodiadau'n dilyn trefn y ffurflen.

Gall staff y Llys eich helpu i lenwi'r ffurflen hawlio a rhoi gwybodaeth am y drefn ar ôl iddi gael ei chychwyn. Ond allan nhw ddim rhoi cyngor cyfreithiol i chi. Os oes angen cyngor cyfreithiol arnoch, er enghraifft ynghylch pa mor debyg ydy'ch cais o lwyddo, dylech gysylltu â thwrnai neu Ganolfan Cyngor ar Bopeth.

Os byddwch yn llenwi'r ffurflen hawlio â llaw, defnyddiwch inc du ac ysgrifennwch mewn llythrennau bras.

Ar frig y ffurflen hawlio a phob dogfen llys dilynol sy'n ymwneud â'r hawliad profiant rhaid i chi roi:

'Yn ystâd y diweddar [enw] (Profiant)'

Gwnewch gopïau o'r ffurflen hawlio sydd wedi'i llenwi a nodiadau cyfarwyddyd y diffynnydd er mwyn sicrhau bod gennych un copi i chi'ch hun, un copi i'r llys ac un copi ar gyfer pob diffynnydd. Anfonwch neu ewch â'r ffurflen i swyddfa'r llys gyda'r ffi briodol. Gall y llys ddweud wrthy'ch faint fydd hyn.

Rhaid i chi lenwi pennawd y ffurflen i nodi'r llys lle rydych chi am godi'r hawliad. Yn Llundain, gallwch godi'ch hawliad yn y Llysoedd Barn Brenhinol. Y pennawd fydd:

'Yn Adran Siawnsri'r Uchel Lys Barn'

Y tu allan i Lundain, dim ond yn Birmingham, Bryste, Caerdydd, Leeds, Lerpwl, Manceinion, Newcastle upon Tyne neu Preston gallwch chi godi'ch hawliad. Bydd hyn un ai yn y Cofrestrfeydd Dosbarth; y pennawd fydd:

'Yng Nghofrestrfa Ddosbarth  
Adran Siawnsri'r Uchel Lys Barn'

neu

yn y llys sirol; y pennawd fydd:

'Yn Llys Sirol

Chi fydd yr 'hawlydd' gan mai chi sy'n cychwyn hawliad; a'r 'diffynnydd' fydd y sawl rydych chi'n ei siwio.

## Probate Claim

### Notes for claimant on completing a claim form

Please read all these guidance notes before you begin completing the claim form. The notes follow the order in which information is required on it.

Court staff can help you fill in the claim form and give information about procedure once it has been issued. But they cannot give you legal advice. If you need legal advice, for example about the likely success of your claim, you should contact a solicitor or a Citizens Advice Bureau.

If you are filling in the claim form by hand, please use black ink and write in block capitals.

The claim form and all subsequent court documents relating to the probate claim must be marked at the top:

'In the estate of [name] deceased (Probate)'

Copy the completed claim form and the defendant's notes for guidance so that you have one copy for yourself, one copy for the court and one copy for each defendant. Send or take the forms to the court office with the appropriate fee. The court will tell you how much this is.

You must fill in the heading of the form to indicate the court where you want the claim to be issued. In London, you can issue your claim at the Royal Courts of Justice. The heading will be:

'In the High Court of Justice Chancery Division'

Outside London, you can only issue your claim in Birmingham, Bristol, Cardiff, Leeds, Liverpool, Manchester, Newcastle upon Tyne or Preston. This will be either in the District Registries; the heading will be :

'In the High Court of Justice Chancery Division  
District Registry'

or

in the county court; the heading will be:

'In the County Court'

As the person issuing the claim, you are called the 'claimant'; the person you are suing is called the 'defendant'.

Rhaid i hawlyddion sydd dan 18 mlwydd oed neu'r sawl nad ydynt yn gallu gwneud penderfyniadau drosto'i hun dan ystyr Deddf Galluedd Meddyliol 2005 (h.y. partion a warchodir), gael cyfaill cyfreitha i gychwyn a chynnal achos llys ar eu rhan. Bydd staff y llys yn dweud rhagor wrthy ch chi am yr hyn sydd angen i chi ei wneud os ydy hyn yn berthnasol i chi.

Rhaid i chi ddarparu'r wybodaeth ganlynol amdanoch chi eich hun a'r diffynnydd gan ddiybnu ar eich statws fel hawlydd a statws y diffynnydd sy'n cael ei siwio. Wrth hawlio neu gael eich siwio fel:-

### **Unigolyn**

Pob enw cyntaf ac ail enw hysbys, a ydych yn Mr, Mrs, Miss, Ms neu arall (e.e. Dr) a chyfeiriad preswyllo (gan gynnwys y cod post, rhif ffôn a ffacs neu gyfeiriad e-bost) yn y Deyrnas Unedig.

### **Pan fydd yr unigolyn**

**Dan 18 oed** ysgrifennwch '(plentyn gan "Mr Joe Bloggs" ei ch/gyfaill cyfreitha)' ar ôl enw'r plentyn. Os yw'r plentyn yn cynnal achos ar eu rhan eu hunain ysgrifennwch '(plentyn)' ar ôl enw'r plentyn.

**Unigolyn nad yw'n gallu gwneud penderfyniadau drosto'i hun** dan ystyr Deddf Galluedd Meddyliol 2005 (h.y. partion a warchodir), ysgrifennwch '(gan "Mr Joe Bloggs" ei gyfaill cyfreitha)' ar ôl enw'r parti a warchodir.

Pan fydd eich hawliad yn ceisio diddymu grant profiant neu lythyrau gweinyddu, rhaid i bawb sydd â hawl i weinyddu'r ystâd dan y grant, neu sy'n honni bod ganddynt hawl, fod yn barti i'r hawliad.

### **Ffurflen hawlio**

- Rhaid i'r ffurflen hawlio gynnwys datganiad o natur budd yr hawlydd a phob diffynnydd yn yr ystâd.
- Os ydych chi'n anghytuno â budd parti arall yn yr ystâd rhaid i chi nodi hyn a rhoi'ch rhesymau.
- Os ydych chi'n honni
  - nad oedd yr ewyllysiwr adeg cyflawni'r ewyllys yn gwybod am ei chynnwys nac yn cymeradwyo'r cynnwys,
  - na chafodd ewyllys ei chyflawni'n briodol; neu
  - nad oedd yr ewyllysiwr yn ei iawn bwyll adeg cyflawni'r ewyllys, neu nad oedd yn cofio'n iawn nac yn deall yn iawn; neu
  - bod yr ewyllys wedi'i gweithredu drwy dwyll neu bwysau gormodol,

rhaid i chi nodi'ch gwrthwynebiad yn fanwl a rhoi manylion y ffeithiau a'r materion yr ydych yn dibynnu arnynt.

Claimants who are under 18 years old or persons who lack capacity to conduct proceedings within the meaning of the Mental Capacity Act 2005 (ie. protected parties), must have a litigation friend to issue and conduct court proceedings on their behalf. Court staff will tell you more about what you need to do if this applies to you.

You must provide the following information about yourself and the defendant according to the capacity in which you are claiming and in which the defendant is being sued. When claiming or being sued as:-

### **An individual**

All known forenames and surnames, whether Mr, Mrs, Miss, Ms or other (e.g. Dr.) and residential address (including postcode, telephone and fax number or e-mail address) in the United Kingdom.

### **Where the individual is**

**Under 18** write '(a child by "Mr Joe Bloggs" his litigation friend)' after the child's name. If the child is conducting proceedings on their own behalf write '(a child)' after the child's name.

**A person who lacks capacity** within the meaning of the Mental Capacity Act 2005 to conduct proceedings (ie. protected parties) write '(by "Mr Joe Bloggs" his litigation friend)' after the protected party's name.

Where your claim seeks revocation of a grant of probate or letters of administration, every person who is entitled to, or claims to be entitled to, administer the estate under the grant, must be made a party to the claim.

### **Claim form**

- The claim form must contain a statement of the nature of the interest of the claimant and of each defendant in the estate.
- If you dispute another party's interest in the estate you must state this and set out your reasons.
- If you contend that
  - at the time when a will was executed the testator did not know of and approve its contents,
  - a will was not duly executed; or
  - at the time of the execution of a will the testator was not of sound mind, memory and understanding; or
  - the execution of a will was obtained by undue influence or fraud,

you must set out the contention specifically and give particulars of the facts and matters relied upon.

## **Datganiad gwirionedd**

Rhaid i chi, eich twrnai neu'ch cyfaill cyfreitha lofnodi hwn, fel sy'n briodol. Efallai y dygir achos o ddirmyg llys yn erbyn rhywun sy'n llofnodi datganiad gwirionedd heb gredu'n onest ei fod yn wir.

## **Cyfeiriad ar gyfer dogfennau**

Yn y blwch hwn rhowch y cyfeiriad lle rydych chi am dderbyn dogfennau os yw'n wahanol i'r cyfeiriad roesoich chi dan y pennawd 'Hawlydd'. Rhaid i'r cyfeiriad fod yn y Deyrnas Unedig.

Os ydych chi'n fodlon derbyn gwasanaeth drwy DX, ffacs neu e-bost, ychwanegwch fanylion.

## **Dogfennau i'w ffeilio**

Rhaid i chi ffeilio holl ddogfennau ewyllysiol yr ymadawedig marw sydd gennych yn eich meddiant neu dan eich rheolaeth gyda'ch ffurflen hawlio.

Mae dogfen ewyllysiol yn golygu ewyllys, ewyllys ddrafft, cyfarwyddiadau ysgrifenedig ar gyfer ewyllys a wnaed gan, neu ar gais, yr ewyllysiwr ac unrhyw ddogfennau sydd i bob golwg yn dystiolaeth o gynnwys ewyllys yr honnir sydd ar goll neu wedi'i dinistrio neu gopi ohoni.

Ar ben hynny rhaid i chi ffeilio tystiolaeth ysgrifenedig am y dogfennau a ddylai fod yn y ffurflen sy'n atodiad i'r Cyfarwyddyd Ymarfer i Ran 57. Rhaid i chi'n bersonol ei llofnodi (ac nid eich twrnai) neu'ch cyfaill cyfreitha.

Dim ond os ydy'r llys yn rhoi caniatâd y gallwch chi ffeilio'ch ffurflen hawlio heb y dogfennau ewyllysiol na thystiolaeth yn eu cylch. Dim ond mewn achosion brys y bydd yn gwneud hyn fel rheol. Er enghraifft, pan fyddwch chi'n dymuno gwneud cais ar gyfer penodi gweinyddwr ar unwaith wrth ddisgwyl am benderfyniad eich hawliad ac nad yw hi'n bosibl cael gafael ar y dogfennau ar unwaith.

Os bydd y llys yn rhoi caniatâd, bydd yn disgwyl i chi ymrwymo i roi'r dogfennau erbyn dyddiad penodol.

## **Archwilio dogfennau ewyllysiol**

Ac eithrio gyda chaniatâd y llys, chaiff yr un parti archwilio'r dogfennau ewyllysiol na'r dystiolaeth ysgrifenedig a roddwyd neu a ffeiliwyd gan barti arall nes iddyn nhw roi eu dogfennau ewyllysiol a ffeilio eu tystiolaeth eu hunain.

## **Statement of truth**

This must be signed by you, by your solicitor or your litigation friend as appropriate. Proceedings for contempt of court may be brought against a person who signs a statement of truth without an honest belief in its truth.

## **Address for documents**

Insert in this box the address at which you wish to receive documents if different from the address you have already given under the heading 'Claimant'. The address must be in the United Kingdom.

If you are willing to accept service by DX, fax or e-mail, add details.

## **Documents to be filed**

You must file any testamentary document of the deceased person which you have in your possession or control with your claim form.

A testamentary document means a will, a draft of a will, written instructions for a will made by or at the request of, or under the instructions of the testator and any documents purporting to be evidence of the contents, or to be a copy, of a will which is alleged to have been lost or destroyed.

In addition you must file written evidence about the documents which should be in the form annexed to the Practice Direction to Part 57. It must be signed by you personally (and not your solicitor) or by your litigation friend.

You may only file your claim form without the testamentary documents or evidence about them if the court gives permission. It will normally do this only in cases of urgency. For example, where you wish to apply for the immediate appointment of an administrator pending the determination of your claim and it is not possible to obtain the documents immediately.

If the court gives permission it will expect you to give an undertaking to lodge the documents by a specific date.

## **Inspection of testamentary documents**

Except with the permission of the court, no party is allowed to inspect the testamentary documents or written evidence lodged or filed by another party until they have lodged their testamentary documents and filed their evidence.