



Can I leave someone \$1 in my Will to prevent them making a claim against my estate?

Author: [Chris Alfonso](#)

Email: chris@ealawyers.com.au

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It is a question that often arises during estate planning when trying to manage the risk of a person contesting a Will: *"If I leave someone a token amount, like \$1, in my Will, does that stop them from contesting it?"*

The idea is to acknowledge the person and provide a token inheritance, without providing a substantial inheritance, in the hope that this will prevent legal challenges. However, in NSW, this approach is largely ineffective and, in some cases, even more problematic than not making any gift.

Family Provision Claims in NSW

A [Family Provision Claim](#) is a legal action brought against the estate of a deceased person. It involves a two-stage test:

1. The applicant must be an eligible person, such as a spouse, child, or someone who was financially dependent on the deceased; and
2. They must establish that the deceased's Will (or the distribution [under intestacy where there is no Will](#)) fails to make adequate provision for their proper maintenance, education, or advancement in life.

The myth of the token gift

It is a common misconception that leaving a potential claimant a nominal amount, say \$1, will prevent them from contesting a Will. In reality, this approach does not remove an eligible person's legal right to make a Family Provision Claim against the estate.

Under NSW law, if a person meets the criteria to be considered an eligible person, the Court's focus is not on whether they were merely mentioned in the Will with a token gift, but on whether they were left adequate provision for their proper maintenance, education, or advancement in life.

Simply including a token gift in the Will does not prevent an eligible person from challenging the estate, and may, in some cases, even highlight the inadequacy of the provision made. This, in turn, may even strengthen their case or resolve to contest the Will.

Understanding adequate provision when drafting your Will

The Court considers various factors when assessing a Family Provision Claim, including:

- the financial needs and resources of the eligible person (in this case, the person contesting the Will);
- the nature of the relationship between the eligible person and the deceased;
- any obligations or responsibilities the deceased had toward the eligible person;
- the size and nature of the estate.

While it will ultimately depend on the circumstances of the eligible person and the estate, a nominal gift (such as \$1 or \$100) is unlikely to be considered adequate provision if the claimant can demonstrate genuine need or entitlement.

Symbolic gifts in your Will, and their implications

While symbolic gifts may serve as a gesture of acknowledgment, they do not carry legal weight in preventing claims against the estate. In some cases, they may even highlight the minimal provision made or appear vindictive, potentially strengthening the claimant's case or strengthening their resolve to pursue a claim.

Under the *Succession Act*, persons named or referred to in the Will are automatically entitled to receive a copy of the Will. Many potential claimants may be entitled to inspect a copy of the Will by virtue of their relationship to the deceased, even if they are not named in the Will (such as a spouse or children of the deceased).

However, for someone who may not automatically qualify as a person entitled to inspect the Will by virtue of their relationship (such as a sibling, cousin, aunt or uncle, or former in-law), including a token gift will enable them to demand a copy of the Will. Including a token gift to these more remote relationships can empower them to demand a copy of the Will from the Executor.

It is also important to note that including a "no contest" clause in a Will, stipulating that a beneficiary forfeits their inheritance if they challenge the Will, is generally unenforceable in Australia. Such clauses do not override statutory rights to contest a Will. You can read more about this in our earlier blog, ["What is a 'no contest' clause in a Will and is there a better option?"](#)

Best practices for minimising disputes and contested Wills

Follow these simple suggestions to reduce the risk of your Will being contested.

Seek professional legal advice

An experienced estate planning lawyer can help structure your Will to reflect your intentions clearly and lawfully, and to assist you in assessing the risk of a potential claim against your estate.

Document your reasons

If you choose to exclude someone or provide a minimal inheritance, consider documenting your reasons in a separate statement. This can provide your executor with an outline of your reasoning as to why you have prepared the Will in the way you have, which could be relevant in the event of a claim. While a statement would not prevent a claim from being made, it can provide context or your voice if the Will is challenged.

Regularly review your Will

Life circumstances change, as do the risk of challenges to an estate. Regular reviews ensure your Will remains up-to-date and reflective of your current wishes and circumstances. Learn more in our earlier blog, [“When should I review or update my Will?”](#)

Consider alternative estate planning tools

Trusts and other mechanisms can offer more control over asset distribution and may provide some additional protection against claims. In NSW, the concept of notional estate can impact the effectiveness of certain other estate planning strategies.

In NSW, notional estate refers to assets that were no longer owned by the deceased at the time of death but can be “clawed back” into the estate by the Court for the purpose of a Family Provision Claim. This can include property passing to a surviving joint tenant, money that was gifted away, payments from superannuation nominations, trust transfers, or other transactions made within three years prior to death that reduced the estate’s value.

If the Court finds it is in the interests of justice, and the transaction disadvantaged an eligible claimant, the Court may order that those assets be made available to satisfy a claim.

Get help from a lawyer experienced in estate planning

While it might feel satisfying to include a symbolic \$1 gift in your Will, leaving someone a nominal amount does not prevent an eligible person from contesting it under NSW law. To ensure your estate is distributed according to your wishes and to minimise potential disputes, it is essential to seek professional legal advice and consider comprehensive estate planning strategies.

E&A Lawyers has a dedicated and experienced estate planning team that can help you. For more information or to arrange a consultation with a lawyer, you can call or email us.

Contacting E&A Lawyers

For more information or to arrange a consultation with a lawyer, you can call or email us.

[02 9997 2111](tel:0299972111)

info@ealawyers.com.au

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