

Missing or Presumed Dead?

Changes brought in by the Presumption of Death Act 2013 allow relatives to apply to the High Court for a declaration of presumed death.

Usually families will know if a loved one has died. In some circumstances, however, family lose touch with one another and years later it appears the missing relative is most likely to have died.

In such cases, where a declaration is required to allow the “deceased’s” estate to be dealt with, the High Court can be asked to intervene.

For such a drastic determination to be made the applicant will need to show that they are either the spouse, civil partner, parent, child or sibling of the presumed deceased and that they have been missing for 7 years or are believed to be dead.

Evidence must be provided to the Court to show that the subject of the application treated England and Wales as a permanent home for the last year they were known to be alive.

There are also strict requirements to advertise the application in the local press (not always as straightforward as it sounds) and to file further evidence with the Court before the final hearing.

Ultimately the Court will make the Order if all the evidence leads to the conclusion that the claim is made out but such Orders are not made lightly.

As hard as a loss is, not knowing if someone has died brings its own special pain. Orders of this sort aim to go some small way towards bringing closure for families by allowing them the means by which to deal with the practical aspect of a “death”.

Our Contentious Probate Team can help with applications of this nature and understand the law, evidence and procedure involved.

Call our Expert Team today