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## **Divorce and Wills – a perfect relationship**

According to research published earlier this week, this is the most popular week of the year during which couples commence divorce or dissolution proceedings.

Once the divorce process is underway it is equally as important to review what will happen to your assets in the future and in particular, in the event of your death or that of your ex spouse/civil partner.

The courts promote “clean breaks” in modern divorce/dissolution settlements, but the same rules do not apply to estates.

Victoria Jones, is an associate solicitor at Lester Aldridge and a member of ACTAPS (Association of Contentious Trust & Probate Specialists), who specialises in contested wills and estates.

She warns “many people do not realise that marriage or the registration of a civil partnership automatically revokes any pre-existing will made by them (unless it was made in contemplation of the marriage/civil partnership).

If a new will is not made and the person dies before their divorce/dissolution is finalised, the intestacy rules will apply. Under these rules family members inherit the estate in a particular order.

For example, if you are married or have a registered civil partnership and have children, your spouse/civil partner will receive a statutory legacy of £125,000 and the remainder of the estate is then split in half. One half goes to the spouse/civil partner for their lifetime and the other half is divided amongst the children in equal shares.”

This means that if the divorce remains un-finalised, the level of assets received by the spouse or civil partner may be minimal, compared to the overall value of your assets. Alternatively, it could be a much larger amount than the person who has died may have wanted them to receive.

Another potential problem is that under the Inheritance Provision for Family & Dependents) Act 1975 ex spouses/civil partners who have not remarried or registered a new civil partnership are entitled to bring claims against their ex partner's estate for 'reasonable financial provision'.

Victoria adds "most modern divorce/dissolution settlements take this Act into account and both parties usually agree not to bring any claim against each other's estates in the future. The main problem is that some earlier settlements may not make any provision for this."

Victoria recommends that anyone contemplating divorce or dissolution of a civil partnership should also seek specialist advice about making or updating their will in order to minimise the risk of future claims against their estate. She advises "achieving a settlement without making any will provision is like buying a house and not insuring it against future damage."

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ENDS

#### Editors Notes

Victoria joined LA in 2001 as an Assistant Solicitor and became an Associate in 2004. Having practised general litigation for several years, she now specialises in contested will/trust cases as part of the Contentious Trust & Probate Group. Victoria has a particular interest in will validity cases and Inheritance Act claims. She is also experienced in dealing with delays in the administration of estates, applications to the Court of Protection, registration of Enduring Powers of Attorney and statutory will applications.

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