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One in four families fall out over wills*

A 2006 survey carried by YouGov states that 1 in 4 families have fallen out over of the contents of a will and almost 20% of those surveyed felt that the estate in question had been divided unequally.*

The results of the survey are reflected in the increased volume of these types of cases solicitors are currently dealing with.

The most shocking discovery of the survey revealed that almost two thirds of those surveyed had not even made a will, whilst 16% of people had no intention of ever making one.

Having no will in place it means that an estate would be divided under the intestacy rules, which can be a common cause of discontent within families. These rules provide that the estate is divided in a specific way between family members. Unmarried partners, for example, receive no provision under these rules

Many people think that once a will is in place that's it – it's final, but it's crucial to review and update your will whenever your circumstances change. The main areas of change include marriage, civil partnership, having children, the death of a beneficiary or starting a business.

It can be just as common for families to be torn apart due a will being out of date and therefore not reflecting the deceased's personal circumstances when they die. If wills aren't updated as people go through these life changes, in the event of their death it can cause considerable anguish and cost for their loved ones at what is already an upsetting time.

An example of when things can go badly wrong is the estate of model Anna-Nicole Smith who died, aged 39, earlier this month.

Despite having already been involved in her own ongoing dispute over her late husband's £1.6 billion estate, it is now her own estate which is the subject of a court case.

Although she left a will, it was made in 2001 and did not reflect the substantial changes in her personal circumstances since then.

The lack of any funeral wishes in the will also led to an argument which was played out in front of the world's media between her partner, ex-partner and mother last week over whether she should be buried in Texas or with her son in the Bahamas.

The next stage of the dispute is likely to be over who will receive her estate, especially if its value is increased by a payment from her late husband's estate.

The validity of Anna – Nicole Smith's will is also being challenged by her mother, but even if this will is upheld, it leaves her entire estate to her 20 year old son Daniel, who died suddenly in 2006.

The will was not amended to reflect her son's death and it makes no provision for her 5 month old daughter, who was born five years after the will was made.

It is therefore likely that this will lead to very lengthy and expensive further litigation

If the content of will had been updated there is a possibility that some, if not all, of the current dispute could have been avoided.

Leaving an out of date will can provide a legal headache for family members and with the survey suggesting that 42% of siblings involved in these types of disputes never speak again; it is also likely to have a huge impact on family relationships.

Bournemouth law firm Lester Aldridge's specialist contentious trust and probate team are seeing more and more of these kind of cases and are reminding people to review and (where appropriate) update their wills as their personal or financial circumstances change. With average costs of a contested will claim being anything from £20,000 - £60,000 it is important to consider the relatively small expense of doing so and compare this with the potential future loss to an estate.

A will is only a "snapshot" of your wishes and those whom you want to provide for at the time it is made. Over time that snapshot fades and is not likely to reflect what has happened in the intervening years. So by taking a new "picture" you are recording something far more accurate and is less likely to cause problems in the future.

Written by Victoria Jones, an Associate Solicitor at Lester Aldridge.

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Editors Notes

Victoria joined LA in 2001 as an Assistant Solicitor and become an Associate in 2004. Having practiced 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.

***Survey Facts**

The YouGov survey was carried out for Scottish Widows and surveyed 2,294 people between 28 – 31 October 2015.

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