



How to make sure your family, and your estate, survive a dispute.

Throughout history, families have fallen out with each other. A classic example from England's past is The Wars of the Roses. This long and bloody conflict eliminated the male lines of both the Lancasters and the Yorks, two families who were all direct descendants of Edward III.

Yet, despite how far we seem to have come since the Middle Ages, families continue to fall into dispute. As I write this, a woman from Stevenage and her sister-in-law are battling in court over the value of a farm they inherited on the death of the woman's brother – her combatant's husband. One wants to buy the other out, but they can't agree for how much. However, the difference in the value they're arguing over will vanish rapidly in costs leaving them both financially and emotionally battered.

We can all be guilty of persuading ourselves this would never happen in my family. However, speaking from my years of experience as a dispute consultant and mediator, I wouldn't be so sure.

My father used to insist an enterprise needed strong leadership, with only one person at the helm. So when he died, he divided his estate equally among his children as his forefathers had done, with just one exception: his own father. My grandfather thought my father was well-enough off and so left his entire estate to his younger son. The disparity here should have been enough to cause a dispute. Thankfully, it didn't.

However, it only takes one family member to act in a way other family members consider unfair to trigger a conflict that, in some cases, will cause pain for generations to come. I remember one family I worked with where the father had died leaving his estate to all six of his children. Although the estate was to be divided equally, it was to be administered by two of the children who had been appointed as co-trustees. The other members of the family objected to these trustees drawing fees and so the dispute began. It went on so long all six children died and their own children were left to try and resolve it. What's more, this long-running dispute firmly split the family into two warring camps of goodies versus baddies.



I don't judge anyone when I mediate or when my firm helps a family resolve these complex matters. What I believe is important is that you fully understand the implications of what you wish for your family.

Should you tell them of your wishes before you go? You should if they include directions and advice to ensure continuity. And would you have the courage, as my grandfather did, to tell your eldest son he is doing OK and therefore is getting nothing so you can help out his younger brother? This kind of economic disparity among beneficiaries is a perfect example of what can easily cause a dispute.

I once mediated for an elderly woman and her three children. She wanted to get her estate in order before she died. She hoped, in doing so, to avoid any conflict and help all her children with their varying business and family responsibilities. On the face of it this should have been a simple process. However, it was complicated by three things. Firstly, the estate was complex and two of the children were employed within it. Secondly, the siblings had deep-set jealousies going back as far as their childhoods and held differing views on the value of the various assets, based on their own opinion of how well they were being run. Finally, the family did not have sufficient professional support from the outset.

At the time of The Wars of the Roses, conflicts were fought on the battlefield. Today, we fight them in court. This is a winner takes all situation where the loser, invariably the estate, pays their opponent's fees as well as their own.

So how, when you write your own will, can you avoid this? Because, while it's easy to write a will, it's far more difficult to execute its plan.

However well you think you have planned to avoid it, it's unrealistic to assume your family won't fall into dispute. It's hard to have an honest conversation and measured debate with a family who, however well they get on, will have their emotions running high. It only needs a single spark to ignite a dispute that may run for many years after you've gone. And that may rip through your estate leaving it a miserable ruin of what you worked your whole life to build..



As Sir Max Hastings wrote in his book, *Vietnam: An Epic tragedy, 1945-1975*, 'The merits of rival causes are seldom absolute.'

The potential causes of family conflict are many and varied. For example: Who should act as power of attorney or trustees? Has any unfair influence come to bear? Has a late marriage changed allegiance? Will an advancement to one heir and not others create tension?

To put this in context, in 2016, the High Court saw an increase of 36% on the previous year in these kinds of cases. I don't have figures for other courts or alternative dispute resolution (ADR), but it would not be unreasonable to expect to see similar growth.

My advice is that you build a team of the right advisors – one that is not limited to your family solicitor and accountant.

Experts in dispute resolution, like Moot Hill, can help you have the difficult conversations and prevent them escalating into a full-scale conflict that ultimately means your hard-earned money is spent on court fees and solicitors' costs, and your family is left bruised and poorer from the experience.

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This article first appeared in *Family Office Magazine*, Spring 2019