Avoid family wrangles by keeping your will and paperwork updated

Millions warned over pension inheritance disputes

Make sure your paperwork is up to date or there could be confusion over who the beneficiary should be.

Pension savers are being warned to regularly update the documents that say who should get money from their pension pot if they die.

This is because families are increasingly challenging decisions made by pension scheme trustees following the death of a member. It falls to trustees of the scheme to make such decisions, but where the savers' intentions were not clear, disputes arise over who should be recognised as beneficiaries.

The issue primarily involves those belonging to company pension schemes where benefits are linked to their salaries. With these, workers paying in should be asked to fill in an "expression of wish" form. This indicates who would receive the pension benefits if they were to die.

Trustees must take members' wishes into account, but do not have to follow them if they decide another solution is more appropriate or if, for instance, the scheme rules do not permit those wishes to be carried out.

In many cases, people fill in their expression of wish form when they first become a scheme member and never update it to reflect changes to their circumstances.

The Association of Member Nominated Trustees said there had been a recent rise in disputes over payments.

Barry Parr, the co-chairman of the organisation, said it was increasingly difficult for trustees to make decisions, particularly in cases where complex family arrangements were in place. Mr Parr stressed the importance of having a will in addition to an up-to-date expression of wish form. He said: “Trustees do take into account a member’s wishes, but they have a duty to consider other potential beneficiaries, especially if the paperwork seems outdated. Common complexities arise when pension savers remarry and fail to update their wishes – especially where children are involved in one or both of the relationships.

“It is important that members keep their wishes updated and have a current will to reduce the likelihood that decisions will be open to challenge.”

The Pensions Ombudsman handles complaints about how pension schemes are run. This is where many disputes over deceased savers’ pensions end up.

Last year it published as an example a case in which a member of the Michelin Pension and Life Assurance Plan signed a form in January 2000 stating he wanted death benefits paid to his two adult daughters. In May 2001 the man married his second wife.

He died in April 2006. He had not updated his preferences and did not leave a will. The trustees decided to pay the death benefit to his daughters in accordance with the man’s paperwork, even though it predated his second marriage.

The wife challenged the decision and referred her case to the Pensions Ombudsman, which agreed with her. The ombudsman found the trustees did not do enough to determine how financially dependent the second wife was on her husband’s pension, nor whether his daughters were dependent on him financially. It ordered the pension scheme to review its decision.

Caroline Banks, a chartered financial planner, said these issues affected increasing numbers as workers chose to delay their retirement. Another factor is the rise in “silver splitters” – those who divorce and form new relationships later in life.

Ms Banks said: “Trustees are dealing with more of these situations. If, for example, a member has two sons and only one son is mentioned in the expression of wish form, the trustee must write to both sons and ask why they should be considered.”

Paul Taylor, managing director of financial advice firm McCarthy Taylor, said: “If you want to exclude someone from receiving death benefits, give very explicit reasons why. Reinforce this with a will and take appropriate legal advice if your situation is not straightforward.”