

Where There's No Will, The Law Decides The Way!

Who Gets What, Why, Where and How

Why should I make a Will?

Any money, property and possessions you have should go to the people you want to have them. Even if you think you have nothing to leave there are assets such as your pension fund, or personal possessions with sentimental value, that should go to someone you care about. The only way you can make sure this happens is to make a will. Without a will someone you don't even like or know might end up inheriting your money – it could even be the government.

What happens when there isn't a Will?

When a person dies without leaving a will the person is said to have died intestate and the law defines how his money, possessions and property are distributed amongst the family. Before this happens any debts the deceased may have are paid.

What happens in different family circumstances?

Here are some scenarios that could apply. In these examples spouse means husband, wife or registered civil partner.

My spouse has died and we have children

If the estate is less than £250,000 everything goes to you if you are alive 28 days after your spouse's death.

If the estate is more than £250,000 the first £250,000 and all personal possessions go to you. 50% of the remainder is shared between the children and the other 50% is held in trust. You have the right to the interest on the capital held in trust during your lifetime and when you die the trust capital is shared between the children.

Example:

If George dies leaving a house worth £450,000 and no other assets, his wife Alice might have to sell the house to give the children half of £200,000 immediately.

$£450,000 - £250,000 = £200,000$

$\frac{1}{2}$ of £200,000 = £100,000 to be shared amongst the children

$\frac{1}{2}$ of £200,000 = £100,000 to be held in trust

Example:

Fred and Greta were married and have two children, Joe and Abby, but later they divorce. Fred gets a new partner Susan and they have a child together called John. Greta does not inherit anything as she was divorced and Susan gets nothing because she was not married to Fred. Joe, Abby and John inherit all of Fred's estate in equal shares.

My spouse has died and we have no children. He had no parents, brothers or sisters

Everything goes to you if you are alive 28 days after your spouse's death.



St Nicholas
Hospice Care

A Registered Charity No. 287773

My mother has died and my father is dead too

Everything goes to you and your brothers and sisters in equal shares when you each reach 18. Before this age the money is kept in trust.

Example:

Joy, a widow, dies and leaves children: Verity 21, Hope 19 and Sara 15. All Joy's money, property and possessions are valued at £450,000. The family house is sold. Verity and Hope get £150,000 each (£450,000 / 3) and £150,000 is put into a trust until Sara is 18.

My spouse has died and we have no children but his parents are still alive

If the estate is less than £450,000 everything goes to you if you are alive 28 days after your spouse's death.

If the estate is more than £450,000 the first £450,000 and all personal possessions go to you plus 50% of the rest. The remaining 50% is divided between his parents in equal shares.

My spouse has died and he has brothers and sisters

If the estate is less than £450,000 everything goes to you if you are alive 28 days after your spouse's death.

If the estate is more than £450,000 the first £450,000 and all personal possessions go to you plus 50% of the rest. The remaining 50% is divided between his brothers and sisters in equal shares.

My daughter has died and she had no spouse and no children

Everything is divided equally between you and your spouse.

My brother has died. He had no children and our parents are dead

Everything is divided equally between you and your brothers and sisters provided you are whole blood relatives. If one of your brothers or sisters has died their children are allowed to inherit that share.

My half-sister has died. She had no spouse and no children. Her parents are dead and she had no other whole-blood brothers, sisters, nieces or nephews

Everything is divided equally between you and any other half brothers and sisters. If any of them have died their children are allowed to inherit their share.

My grandson has died. He had no other living relatives

Everything is divided equally between you and your spouse.

No spouse, children, parents, brothers, sisters, nieces, nephews, half-brothers, half-sisters or grandparents:

Everything is divided equally between the (whole blood) uncles and aunts. Their children are allowed to inherit their share if the deceased's uncle or aunt has died.

No spouse or any blood relatives

Everything goes to the Crown.

I own a house with my partner but we're not married. What happens if my partner dies without a Will?

There are two different ways of jointly owning a home. These are beneficial joint tenancies and tenancies in common. If you and your partner are beneficial joint tenants when the first partner dies, the surviving partner will automatically inherit the other partner's share of the property. However, if you and your partner are tenants in common, you do not automatically inherit their share. It becomes part of his Estate and is distributed as above.

Example:

Dick and Dora are not married and hold their flat jointly as beneficial joint tenants. Dick dies leaving the flat worth £300,000 and £50,000 in shares in his own name. The flat goes automatically to Dora. This leaves an estate of £50,000 and as he has no children this will be shared between his mother and father. If Dick had owned the flat with Dora as tenants in common his share of the value (half of £300,000) would mean his estate would be worth £200,000. That would have left Dora in a difficult position and she might have to sell her home.

My partner and I are not married but have lived together for some time, can I get anything when there is no Will?

The following people have no right to inherit when someone dies without leaving a will: unmarried partners, lesbian or gay partners not in a civil partnership, relations by marriage, close friends or carers do not inherit under the rules of intestacy. Unfortunately as you are not married you will not be able to get anything unless you owned possessions in both your names (as above). In certain circumstances you may be able to apply to court for financial provision from the estate. This is normally by seeking professional advice from a solicitor.

Can a Deed of Variation be applied if there is no Will?

If all the beneficiaries who inherit under the laws of intestacy agree, they can change the way in which the estate is distributed so it can go to another person or organisation. Gifts to Charity are exempt from tax and help to reduce your Inheritance Tax liability. The beneficiaries have up to two years after the death to do this by instructing a solicitor to draw up a **Deed of Variation**.

(see information leaflet Good Deed of the Day)

Any information we give is for general guidance only and does not represent actual legal or financial advice. We strongly recommend all our patients, families and supporters to seek professional assistance from a qualified practitioner.

You should bear in mind that the tax laws are continually changing. What may be valid today may not be so tomorrow. It is important therefore to always keep any financial arrangements that you may make under regular review.