



KEY ISSUES

If you die without a valid will your estate may not be shared out as you would wish.

Intestacy laws spell out exactly who gets what if you don't have a will.

If your estate is valued over £250,000 and children are involved, the rules become even more complex and even your spouse may not get all you would expect.

Making a will is your chance to say how you want your estate to be shared, who will look after your children under 18, and to avoid unnecessary extra costs.

Legal advice is important unless your circumstances are very simple.

Why make a will?

A will spells out your wishes about what happens to your money, property and possessions after your death. It should set out who you wish to benefit and if you have children under 18, it should also state who should look after them and how they will be supported financially. If your circumstances are not straightforward, if there is a business or a previous marriage and children for example, it is advisable to seek legal advice when making your will. We strongly recommend that a will is in place and is reviewed regularly to ensure that the estate passes as you wish, not how the intestacy law says it should. If you need help in writing a will (or updating one) contact Aspira on 0800 048 0150 and we'll be pleased to introduce you to experts in this field.

What happens if you die without leaving a will?

When someone dies without a valid will (and that currently applies to over 60% of UK adults), their estate will pass under the **Intestacy Rules**. These are a fixed set of rules which set out an order of priority to determine who will inherit from the estate. Whether or not someone will inherit will depend on his or her relationship to the deceased, whether other closer members of the family have survived and the value of the estate.

The table overleaf summarises the intestacy rules for England, Wales and Scotland.

For more detailed guidance you could visit the following websites:

Citizens Advice Bureau - www.citizensadvice.org.uk/family/death-and-wills/
Gov.uk - <https://www.gov.uk/inherits-someone-dies-without-will>

Marriage and co-habitation

There are some key points to note:

- If you are unmarried but co-habiting when you die, your partner will not benefit at all from the estate under intestacy rules.
- Only persons married at the date of death qualify as spouses who will inherit.
- Where the deceased and his/her spouse or civil partner have been judicially separated the former spouse or civil partner does not inherit anything. Similarly, where a couple have been divorced or a civil partnership has been dissolved the surviving spouse or civil partner does not inherit anything.
- Co-habitees or others dependent on someone when they die, who do not benefit under the intestacy rules, may be able to bring a claim against the estate under the provisions of the Inheritance (Provision for Family and Dependents) Act 1975. These claims can prove expensive, cause delay and bad feeling.
- Jointly owned assets may pass to the co-owner irrespective of these rules. In other words, only assets held solely or as tenants in common will be covered by intestacy rules.

Children

You may not be aware that step-children have no entitlement under the intestacy rules. And, where a child who would have inherited has died, their inheritance will be divided equally between their children (and so on). Children, brothers, sisters, uncles and aunts will not come into their inheritance until they are 18 or married.

Tax

An intestate estate may pay more tax than you would otherwise expect.

The beneficiaries can remedy this by Deed of Variation but only where they are all aged over 18.





What happens if you die without leaving a will?

	ENGLAND & WALES	SCOTLAND	NORTHERN IRELAND
Surviving spouse/ civil partner and children (or other direct descendants)	<p>Spouse inherits entire estate, providing it is not valued at more than £250,000.</p> <p>If estate is valued at more than £250,000, the spouse inherits the first £250,000, all personal possessions and half the remaining estate.</p> <p>Children or other direct descendants receive the other half of the remaining estate.</p>	<p>Spouse receives deceased's interest in the family home up to £473,000, or where the property value exceeds this figure, a lump sum of £473,000 instead.</p> <p>Spouse also has right to furniture and moveable household goods up to £29,000 and a legacy of £50,000.</p> <p>Surviving spouse is entitled to a one-third share and children a two-thirds share of the deceased's remaining moveable estate (e.g. cash, shares, jewellery) after the above has been paid.</p>	<p>Spouse inherits entire estate, providing it is not valued at more than £250,000.</p> <p>If estate is valued at more than £250,000, then the spouse receives personal possessions, £250,000 free of tax and the interest thereon.</p> <p>If there is one child, the spouse receives one-half, or if there is more than one child, a one-third share of any remaining estate, with the rest divided equally between children (or if none, grandchildren); surviving parents; brothers and sisters (or their children if they died while the deceased was still alive).</p>
Surviving spouse/ civil partner but no children	<p>Spouse inherits the entire estate regardless of its value.</p>	<p>Spouse receives deceased's interest in the family home up to £473,000, or where the property value exceeds this figure, a lump sum of £473,000 instead.</p> <p>Spouse also has right to furniture and moveable household goods up to £29,000 and a legacy of £89,000.</p> <p>Surviving spouse is entitled to a one-half share of the deceased's remaining moveable estate (e.g. cash, shares, jewellery) after the above has been paid.</p>	<p>Spouse inherits entire estate, providing it is not valued at more than £250,000.</p> <p>If estate is valued at more than £250,000, then the spouse receives personal possessions, £450,000 free of tax and the interest thereon.</p> <p>Remaining estate shared by the grandchildren, or if none surviving parents, or siblings, or siblings' children.</p>
Children but no spouse/civil partner	<p>Children inherit entire estate in equal shares (or their descendants if the child has died).</p>	<p>Children inherit entire estate in equal shares (or their descendants if the child died while the deceased was alive).</p>	<p>Children inherit entire estate in equal shares (or their descendants if the child has died).</p>
No spouse/civil partner, no children	<p>Estate shared equally between first available group (parents, siblings or their children, half-siblings or their children, grandparents, aunts/uncles, half-aunts/uncles).</p>	<p>Estate shared equally between parents, or to siblings, nieces & nephews, grandparents, aunts/uncles, cousins.</p>	<p>Estate shared between parents, or if none survive, siblings or their children, or if none of these are alive, to aunts/uncles, grandparents, great-aunts/great-uncles, more remote relatives.</p>
No relatives	Whole estate goes to Crown		

The Financial Conduct Authority does not regulate tax advice and will writing. *The above is based on our understanding, as at April 2019, of current legislation, taxation and HM Revenue & Customs practice, all of which are liable to change without notice.*