



## The Intestacy Rules

Dying without a Will, known otherwise as dying 'intestate', means that your estate will pass according to the rigid rules of intestacy. Dying intestate can have a devastating effect on individuals who are close to you and who you would otherwise have wished to make provision for.

It is **not** the case that if you die without a Will, your spouse\* will automatically receive all of your assets. In fact without making specific provision, the amount your spouse will receive outright from your estate is capped so that, where there are children, your spouse will only be entitled to £250,000 (plus your personal possessions) and where there are no children but other relatives such as parents, siblings etc the spouse is only entitled to £450,000 (plus your personal possessions). In many cases, these limited entitlements may leave the already-distraught spouse with no choice but to sell the family home.

If you were to die without a Will and you have no relatives, your entire estate will pass to the 'Crown', regardless of whether you may have had expressed the intention of leaving your estate to your partner, close friends or charities.

In many cases (estimated by the Society of Independent Financial Advisors to be as high as **76%** of the UK) not only do the effects of the intestacy rules go against what the individual would have intended, but the same rules may also mean the loss of inheritance tax-saving opportunities.

(Equally, the importance of a Will is not only to ensure that the people you wish to benefit, *do* benefit but also to ensure that the people you do not wish to benefit from your estate *do not*.)

Please see the 'Intestacy Distribution List' below, which further highlights the strict order of entitlement and the consequences of dying intestate.

### INTESTACY DISTRIBUTION LIST

Deceased dies leaving	Estate goes to:
A spouse and children	<ol style="list-style-type: none"><li>1. Net estate not more than £250,000 – All to spouse if he/she survives the deceased by 28 days.</li><li>2. Net estate over £250,000 – First £250,000 plus personal possessions to spouse. Half of the rest is held upon "statutory trusts" to be shared equally amongst the children (on attaining 18). The spouse also has the right to the interest only on the other half during his/her lifetime, then after the death of the spouse, to be held on statutory trusts for the children, in equal shares.</li></ol>

A spouse (but no children), and either parents, or brothers or sisters of the whole blood	<ol style="list-style-type: none"> <li>1. Net estate not more than £450,000 – All to spouse if he/she survives the deceased by 28 days.</li> <li>2. Net estate over £450,000 – If he/she survives the deceased by 28 days, £450,000 plus personal possessions to spouse, plus half of the rest. The other half to the deceased's parents in equal shares; if no parents, then to brothers and sisters of the whole blood in equal shares.</li> </ol>
A spouse but no children, parents or brothers or sisters of the whole blood	<ul style="list-style-type: none"> <li>• All to spouse if he/she survives the deceased by 28 days.</li> </ul>
Children but no spouse	<ul style="list-style-type: none"> <li>• Children in equal shares to be held on statutory trusts until the age of 18 has been attained.</li> </ul>
Neither spouse nor children	<ul style="list-style-type: none"> <li>• Parents in equal shares.</li> </ul>
No spouse, children or parents	<ul style="list-style-type: none"> <li>• Brothers and sisters of the whole blood in equal shares.</li> <li>• If there are no brothers or sisters of the whole blood, then to brothers and sisters of the half blood in equal shares.</li> <li>• If any brothers or sisters are predeceased, their share passes to their children (in equal shares, if more than one).</li> </ul>
No spouse, children, parents or brothers or sisters	<ul style="list-style-type: none"> <li>• Grandparents in equal shares.</li> </ul>
No spouse, children, parents, brothers or sisters or grandparents	<ul style="list-style-type: none"> <li>• Uncles and aunts of the whole blood in equal shares.</li> <li>• If there are no uncles or aunts of the whole blood, then to uncles or aunts of the half blood in equal shares.</li> <li>• If any uncles or aunts have predeceased, their share passes to their children (in equal shares, if more than one)</li> </ul>
No spouse or blood relatives	<ul style="list-style-type: none"> <li>• All of the estate goes to the Crown.</li> </ul>

Please note, it is the unmarried couple who is at the most risk of missing out on the benefits which the deceased intended to pass to their surviving partner. The current intestacy rules do not permit an unmarried partner to benefit, making it essential that unmarried couples take the steps to protect their loved ones *during* their lifetimes by making a valid Will.

There is no question that if you have assets which you would like to pass to particular beneficiaries after your death, making a valid Will is essential: it gives you control as to who benefits from your estate, how they benefit and, in the case of children or young people, when they can benefit.

At Taylor Walton we can assist you in preparing a Will which is drafted in line with your wishes. In advising you, we will highlight the options and various possibilities

which you may not have considered when first instructing us. If relevant, we will also provide you with tailored tax-saving advice, based on your individual circumstances, - advice which may go some way to mitigating the potential 40% inheritance tax liability which could become chargeable on your death.

Ultimately, Taylor Walton can assist you by protecting the assets which you have built up in your lifetime so that you continue to exercise some control over the direction of these assets, thus protecting your friends and family, even after your death. Please contact us if you would like us to advise and assist you in making a Will.

\*References to 'spouse' should be read as including registered civil partners