

The meanings of words

- **"Intestate"** - means someone who dies without a valid will
- **"Children"** - means children, including illegitimate and children adopted by you - but not step-children
- **"Chattels"** - car, furniture, pictures, clothing, jewellery etc
- **"Residue"** - this is what is owned once any debts (for example, funeral account and expenses for administration of the estate) have been paid
- **"Life interest"** - this means having the right to receive the income from a sum of money for a spouse's lifetime; it does not include the right to spend the capital itself
- **"Spouse"** - a husband or wife
- **"Civil partner"** - same-sex couples who have had their relationship legally recognised as a "civil-partnership"
- **"Half blood"** - this is where a relative shares one parent or grandparent with the person who has died
- **"Whole blood"** - this is where a relative shares both parents or grandparents with the person who has died

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Providing the answers on all aspects of intestacy

Intestacy Guide

When a person dies without having made a valid will, he or she is said to have died **intestate**. In such cases, the law sets out the rules which apply in the distribution of that person's estate.

We all know how important it is to have a will, yet millions of us put it off and run the risk of allowing the state to determine how our assets will be distributed when we die.

By making a will, you decide who is to benefit. At the same time, we can advise you on any possible protection of assets from care fees and on aspects of inheritance tax planning.

The Law of England and Wales says:

If you die leaving a spouse/civil partner and children:

The spouse/civil partner gets

- the first £250,000 (or everything if the estate is worth less than this);
- plus personal chattels;
- plus a life interest in half the remaining estate

Your children immediately inherit half the excess over the £250,000 plus the remainder on the spouse's/civil partner's death.

- **Note:** your children can only inherit if they are 18 years or over or, if they marry before that age.
- Any gift for an underage child years has to be held in trust for them until they are 18.

If you die leaving a spouse/civil partner but no children, and no parent, brother or sister, nephew or niece:

Spouse/civil partner takes everything.

If you die leaving a spouse/civil partner but no children, but parent(s) or brother(s) or sister(s) or nephew(s) or niece(s):

The spouse/civil partner gets the first £450,000;

- plus half the balance;
- plus personal chattels

The remainder is shared between the parents, if any, otherwise it goes to any living brothers and sister but if they have died then their children step into their parent's shoes and take equally.

If you die leaving children but no spouse/civil partner the following relatives take in order

- Children share the estate equally; but if none, or a child has died before you leaving children, then those children (being your grandchildren) will take in equal shares; but if none
- Parents share equally (regardless of whether they remain married to each other); but if none
- Brothers and sisters of the whole blood share equally; but if any of them have died leaving children (being your nephews and nieces) they will take equally their parent's share; but if none
- Grandparents; but if none
- Brothers and sisters of the half blood but if they have died before you then their children will take equally their parent's share; but if none
- Uncles and aunts of the whole blood but if they have died before you then their children will take equally their parent's share; but if none
- Uncles and aunts of the half blood but if they have died before you then their children will take equally their parent's share; but if none
- The Crown takes all

WARNINGS

The law makes no provision for a partner to whom you are not married:

A partner with whom you have been living for more than two years may be able to make a claim against your estate for financial provision to be made for them. However, this is costly and could cause acrimony between all family members.

Your children from a previous marriage or relationship will not benefit at all if your estate is under £250,000.

You may have made a will but note that it may be revoked on a subsequent marriage or civil partnership.

You may have made a will but if you do not comply with the formalities or if it is subsequently proved that you lacked capacity, then the will may be invalid.

You may have made a will but if the will does not dispose of all your property then the Intestacy Rules will apply to the undisposed part of your estate.

The only way you can make sure your estate goes to who you want is to make a valid will.

Once you have made a will, you must review it regularly so that if your sole beneficiary dies or was divorced from you then you must update your will to prevent risking intestacy or the wrong person/s benefiting from your estate.

Wills can be a complex area depending on your personal circumstance and we are happy to discuss any aspects of your current or future wills with you in person.

For further information contact us at:

Maldon 01621 852323 **Witham** 01376 512338

Email wills@brights.eu.com

Or come in and see us, for help and advice.