

Inheritance and the importance of a Will



Maxine Phillips

A surprising number of people never make a Will. Most of us don't like to think of our own demise and making a Will and thinking about who would inherit our assets is often something that we put off, time and time again.

Maxine Phillips, a paralegal specialising in Wills, Trusts and Probate at Jackson Lees' Heswall office, comments:

The law says that if you die without leaving a valid Will, whether because you never made one or because the one you made is invalid, your estate (which includes all assets held in your sole name such as property, bank accounts or personal items) will be

distributed according to the Rules of Intestacy.

The Rules of Intestacy do not always distribute assets in the most tax-efficient manner or in the way the deceased may have wanted.

A widely held assumption is that if someone is married, all of their assets will pass to their spouse/civil partner. If you are married and have no children then your spouse/civil partner does inherit everything but if you have children, then the situation becomes more complicated.

Under the Rules of Intestacy, dying without a valid Will means that your spouse/civil partner would inherit the first £250,000, plus your personal items and half of the remainder of your assets – your children would inherit the rest. With house prices steadily increasing, this could mean that your spouse/civil partner could inherit a home, but not the cash that might enable them to pay bills, or keep the home in a good state of repair.

Dying without leaving a valid Will can also mean that unmarried partners and people who remarry with children from previous relationships have no protection.

An example of this came to light recently following the death of an elderly lady. She had never had children, but had married a widower and helped bring up her husband's children from when they were very young. The children had always called her 'Mum' and they had a good relationship.

On the death of her husband, who did not leave a Will, the lady inherited the whole of his estate. Some years later, the lady also died without making

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a Will. Unfortunately, as the children, whom she regarded as her own, were not her biological children, her estate under the Rules of Intestacy should have passed to her surviving siblings as they were her closest surviving relatives.

This situation could have resulted in a claim against the estate which can be costly and time-consuming. In this instance, however, the family concerned came to an amicable decision, which made this unnecessary.

Even when you have a valid Will in place, this should also be reviewed from time to time to make certain it still fulfils your requirements.

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