

Dying without a will: what happens and how we can help?

Many people put off making a will and so it is not uncommon for there to be no will when someone dies. When this happens there is a clear legal process to follow.

It can be unsettling and difficult for the people involved because what the law says must happen may well be different from what the person would have chosen themselves.

Who inherits if there's no will?

When there's no valid will, the law decides who inherits. This is known as the **intestacy rules**, and they set out a strict order of priority. In broad terms:

- **A spouse or civil partner** usually comes first, often sharing the estate with any children.
- **Children** come next, and if there is no surviving spouse or civil partner they usually inherit everything.
- If there are no children, the estate passes to **other relatives** in a set order, starting with parents, then brothers and sisters, and moving further out through the family.

The exact split depends on the size of the estate and who survives, so it's worth getting advice on your own situation.

The surprises that catch families out

The rules are fixed, and they don't always match what people assume. Some common surprises:

- **Unmarried partners have no automatic right to inherit**, however long they lived together. This is one of the most upsetting outcomes we see. A partner may be able to make a claim against the estate, but it's a far harder route than being named in a will.
- **Step-children and friends** don't automatically inherit either, unless the person made a will saying so.
- **Ex-spouses** who divorced before the death won't inherit, but someone who was separated and never divorced may still be entitled.
- **Young beneficiaries** can't simply be handed their share. It has to be held safely for them in a trust until they reach 18.

MHHP Law LLP, The Studio, Highstone House, 165 High Street, Barnet EN5 5SU

Info@mhhlaw.com

0203 667 4780

Visit our website at www.mhhlaw.com



Who deals with the estate?

Without a will there's no executor, so someone has to apply to the court for the authority to act. That person is called the **administrator**, and the document they receive from the court is known as **Letters of Administration**. The right to apply usually follows the same order as the right to inherit, so it's often a spouse, partner or child.

Being an administrator brings the same responsibilities as being an executor, including personal liability if the estate is dealt with incorrectly, so it's not a role to take on lightly.

What if we can't find any relatives?

Sometimes the family tree is complicated, or a relative can't be traced. Getting this wrong can cause real problems later, for example if someone with a right to inherit turns up after the estate has been distributed. In these cases we can help make sure the right people are identified and verified before anything is paid out.

How we can help

At MHHP Law, we deal with these situations with care, and we'll explain each step. We can help you work out who is entitled, apply for Letters of Administration, and see the estate through to the end, so that you can concentrate on your family.

To talk to us about an estate call Ruth Hayward on 020 3667 4784 or email at ruth.hayward@mhhplaw.com, and we'll help you take the first step.

This article is a general guide for England and Wales and does not constitute legal advice. Every situation is different, so please take advice on your own circumstances.

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