

What happens if someone dies without leaving a Will?



If someone dies without leaving a Will (which is known as 'dying intestate') then an already distressing time can become even more complicated. To proceed with the administration of the estate (distribute assets and pay debts etc.), a relative or other eligible person must apply for a grant of letters of administration. However, there is a strict order of eligibility for this.

The order of eligibility is as follows:

- Surviving spouse or registered civil partner (but not common law spouses, partners or cohabitants)
- Children
- Parents
- Brothers/sisters
- Grandparents
- Uncles/aunts

But we understand that, even with this grant, it can be distressing to realise that your loved one's death has left you with unanswered questions. To help you understand this better, we have explained some of the possible scenarios here:

1. If you are married or in a civil partnership (and your spouse survives you by 28 days)

when you die it will depend on the value of your estate as to how matters are handled:-

1. **If your estate is worth less than £322,000** then your spouse or civil partner will automatically inherit everything.
2. **If your estate is worth more than £322,000** your spouse will inherit everything if you leave no children or descendants of children.
3. **If your estate is worth more than £322,000 and you leave children** (irrespective of whether they are from this marriage/civil partnership) then your spouse/civil partner will automatically inherit:

Your personal effects (which now means all tangible movable property except for money, securities for money, property used mainly for business purposes, or property held solely as an investment).

- The first £322,000.
- Half of the balance of the remaining estate outright. The children will share the other half of the balance equally. If any of the children die before your spouse, then their share would be divided equally between their children (if there are any). When your spouse dies, the children also get the assets in which your spouse had a life interest, again divided equally.

2. If you are not married or in a civil partnership

your partner will not be automatically entitled to any of your assets when you die, no matter how long you have been together. Neither will they be entitled to apply for the grant of letters of administration, to manage the probate process. Another person from the order of eligibility above will instead be entitled to receive the assets in the estate and to make the application to manage the probate process. This will also apply if you die without a partner, as follows:-

1. If you leave children, they will inherit everything equally between them. If any of your children have died before you, their descendants will instead inherit.
2. If you leave no children (or other descendants), any surviving parents of yours will inherit equally.
3. If you leave no surviving parents, any brothers or sisters of the whole blood (or their descendants) will inherit equally. Thereafter, any brothers or sisters of the half blood (or their descendants) will inherit equally.
4. If you leave no brothers and sisters, any surviving grandparents of yours will inherit equally.
5. If you leave no grandparents, any surviving aunts and uncles of the whole blood (or their descendants) will inherit equally. Thereafter, any aunts and uncles of the half blood (or their descendants) will inherit equally.

If you are not happy with how your loved one's estate has been managed or divided up you can consider disputing the outcomes. For help and advice talk to one of our probate disputes specialists or contact Elizabeth Fry on 0117 9292811.

For more information on the probate process or to make a Will contact any of our offices to make a free initial appointment or contact Jenny Pierce on 0117 9292811.

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