

Who inherits your estate if you die without a valid Will under the rules of intestacy

Everyone (hopefully) has heard how important it is to have a Will in place to set out what happens to your estate, and who it passes to, on your death. But what happens if you don't have a Will? The short answer is that it passes by the rules of intestacy.

What are the rules of intestacy?

The rules of intestacy govern two main things:

1. Who has the authority to administer your estate after your death.
2. Who ultimately inherits your estate after your death.

It is worth noting that not all assets will be governed by the rules of intestacy (or a Will) upon your death. Only assets that you own in your sole name, or jointly as tenants in common, pass by the rules of intestacy. Assets owned jointly as joint tenants (such as a joint bank account) instead pass automatically to the surviving owner outside of the rules of intestacy.

For more information on the difference between joint tenants and tenants in common, read our blog [here](#).

Additionally, life policies written in trust, death in service benefits, and pension death benefits can all often pass outside of your estate, and not by the rules of intestacy. Typically, they pass in accordance with any nomination you may have put in place, or at the discretion of the pension trustees or insurance company.

Who inherits your estate if you died without a valid Will?

Essentially, the rules of intestacy gradually expand through your family until a family member (or class of family members) is reached and can claim the estate. If there are no beneficiaries in a group as described below, then you move onto the next group.

Please see our [handy flowchart](#) which summarises the distribution of an intestate estate. Please remember "estate" may not be all assets upon death as explained above.

1. If you are married or in a civil partnership, but do not have children, then quite simply everything in your estate would pass to your spouse or civil partner.
2. If you are married or in a civil partnership and have children, it becomes more complicated. For deaths after 26 July 2023, if your estate is worth more than £322,000 then your spouse or civil partner receives the first £322,000, all of your personal possessions, and half of the balance. The other half of the balance passes equally to your children upon attaining age 18. Point to note: a child of the deceased includes legally adopted children, but does not include stepchildren or foster children. If one of your children has died before you, leaving children of their own, those children would inherit their parent's share.
3. If you are unmarried and have children, then your entire estate would pass equally to the children upon attaining age 18. Your partner (even if you cohabit) would receive nothing from your estate under the rules of intestacy. Again, if one of your children has died before you leaving children of their own, those children would inherit their parent's share.
4. If you are not married and have no children but your parents are alive, they would share your estate equally, or if only one of them is alive they would receive your entire estate.
5. If you are not married, have no children, your parents have predeceased but you have siblings, they are the next eligible group and would share your estate equally.
6. If one of your siblings has died before you leaving children of their own (your nieces and nephews), those children would inherit their parent's share.

As you will see from the flowchart, the list of family members who inherit gets wider and wider. Until, at the very end, the estate potentially can pass to the Crown.

Make a valid Will and have it your way

Whilst you may feel the rules of intestacy match your wishes, it is rare that making a Will won't be more beneficial than relying on the rules of intestacy. Some of the benefits in making a Will include:

- Giving Executors clear authority to act from the date of death. Being appointed by a Will makes it absolutely clear who it is that financial institutions and other organisations should be receiving instructions from. Their authority also derives/starts from the date of your death (which is not the case with an intestacy).
- Allows you to have different people as Executors to those who you wish to benefit from your estate. You may, for example, want to appoint trusted friends to act as executors as they would understand your estate and your intentions.
- It gives clarity to those surviving you what exactly your wishes were.
- Allows you to set out funeral wishes.
- Allows you to include an appointment of guardians for minor children.
- Allows you to change the age that beneficiaries are entitled to receive their inheritance, and to set up trusts to protect young or vulnerable beneficiaries.
- Provides an opportunity for inheritance tax planning through your Wills.
- For spouses and civil partners without children, it allows you to split your combined estates between both of your families rather than everything simply passing to the family of the second of you to die.

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