



How to protect your estate with a Will

Thousands of people die every year without making a Will; in this case it is the law that decides what happens to your estate and the results could come as a bit of a shock. In many cases, the spouse/partner didn't fully inherit or inherited nothing at all. A Will is vital to your family's future security and you can avoid all of the issues below by sorting it out now.

- You could leave your family with months and possibly years of financial hardship and expense whilst they try and sort out your affairs
- You could leave your spouse only part of everything you own leaving the rest subject to inheritance tax
- You could leave your partner nothing and relatives you've never met could inherit everything
- Your children could inherit the remainder of your estate at 18 with authority to enforce the sale of any part of it (including the home) to realise their inheritance. If they get divorced, their ex-spouses could claim part of your estate
- You could end up giving the tax man money that could have gone to your family
- Your bank or solicitor could end up being a major beneficiary of your estate because they will have to be paid to sort out the mess which could take years
- Your children could inherit nothing if your home is sold to pay for the costs of long term care
- If you and/or your partner have children from a previous relationship and you jointly own assets with your partner, if you both died without a Will then only one set of children will inherit the estate

If you don't have a Will, Intestacy Rules apply to your solely-owned assets

Married with children**

Spouse gets first £250,000 plus personal possessions plus ½ of the remaining assets. The children get the second ½ of the remaining assets at 18 (or earlier on marriage).

Married without children

Spouse gets all of the estate.

Single/unmarried with children**

All to children (or their children) at 18 or earlier on marriage. **Partner gets nothing.**

Single/unmarried without children

To parents, then siblings, then their children at 18, then half-siblings, then their children at 18, then grandparents, then full uncles and aunts, then their children at 18, to half blood uncles and aunts, then their children at 18, then to HM the Queen. **Partner gets nothing.**

Issues with Intestacy Rules

- Delays of up to 2 years whilst processing an estate through intestacy are not unusual
- Unmarried partners are totally excluded
- Someone (usually a family court) decides who to appoint as guardians for your children – meanwhile they are often made wards of court and put into care
- Someone (often a solicitor) has to look after the capital and income of the estate if a child is under 18
- Your children could get their inheritance at 18. Will they make responsible choices?
- Step-children inherit nothing
- The surviving spouse may not have full access to the capital
- Inheritance tax (IHT) may be payable on 1st death as the whole estate didn't pass to the spouse
- The home may have to be sold to pay off the children or to pay IHT and if the children are under 18 they cannot sell so a court may have to decide for them
- Jointly held assets pass automatically to survivor, BUT through the youngest co-owner's estate on simultaneous death
- Family home not protected from claims by the Local Authority to pay for long term care costs

* For simplicity, where the word "spouse" has been used throughout this also refers to Civil Partners and where the word "marriage" has been used this also refers to Civil Partnership.

**If a son of daughter has already died then their children will inherit in their place





Have you got the right sort of Will?

Perhaps you already have a Will. Does it cover these situations?

- Your surviving partner enters a new relationship or [re-]marries after your death
- Your surviving partner subsequently goes through a costly divorce settlement or separation
- Your beneficiaries become bankrupt and their creditors claim your estate
- Your surviving partner enters long term care
- You have a disabled or vulnerable child who may lose their benefits or waste their inheritance
- Your estate is over the tax-free threshold but you have failed to protect it from the tax man
- You have business assets and have failed to protect the tax relief on these

So have you sufficiently protected your children's inheritance with the Will you have?

“ My parents drafted basic mirror Wills but my brother and I still inherited nothing. It all went to my father's new wife! ”

Different types of Will

Simple Wills are the most common type of Will. Couples might simply leave everything to each other and then to the children. A single person might leave everything to their immediate family. But Simple Wills are not very effective because they don't safeguard your estate from any of the above situations.

An Asset Protection Strategy could help your family

This strategy enables you to leave a share or all of your estate to one or more trust (meaning that it is outside of your partner's or family's estate). This means that your surviving partner could benefit from the asset during their lifetime, and it cannot be claimed as an asset by, for instance the local authority or a creditor.

This type of planning means that you can continue to **protect all or a portion of your estate** for your beneficiaries whatever may happen after your death (or if you have a partner, before or after their death.)

Taking the opportunity to ring-fence all or part of your estate with a trust as part of our Asset Protection Strategy is something you should do when drafting your Will and our bespoke advice will ensure that the strategy is the right one for your situation.

Let Cornerstone Wills help you to protect your estate

