

Why leave it to a chance when you can leave it to those you love?

MAKE A WILL?

Perhaps it is not surprising that nearly half of all Britons have not made a will.

The law sets out clear rules for what happens to your estate - property, personal possessions and cash - if you die without a will.

Passing away without a will is known in legal parlance as dying intestate and the rules that govern the distribution of the estate in such circumstances is known as the law of intestacy.

Under the Administration of Estates Act 1925 the spouse and children do not automatically receive everything in the deceased's estate.

There is a strict pecking order under the Act for deciding who gets what and the chart on the next page clearly shows what would happen

Where the deceased leaves a spouse but no children, the spouse receives:

- All the personal chattels such as a car, furniture, clothes and jewellery
- A legacy of £200,000 and one half of the balance outright
- The remaining balance then passes to various relatives; first to the deceased's parents if either are still alive but if not then equally amongst brothers and sisters

Where there is a spouse and children, the spouse receives:

- All the personal chattels
- A legacy of £125,000 and the income from one half of the balance
- The rest passes to the children on reaching 18

All this can leave the spouse and the children with a financial headache, typical problems include:

- If the matrimonial home is in the deceased spouse's sole name, this may often have to be sold to satisfy the various family claims
- Where there are children they are likely to receive very little, unless the estate is worth several hundred thousand pounds
- Inheritance tax may be due if the value of the estate passing to the beneficiaries, apart from the spouse, is worth more than £300,000 (2007/2008 tax year)

Harsh treatment for the spouse

The spouse is free to ask the courts for more money, under the Provision for Family and Dependents Act 1975.

Nevertheless, there is no doubt, that the surviving spouse is treated harshly by the intestacy rules.

Although at first glance it seems that children fare well under intestacy, they are guaranteed a share of the estate, the fact that are entitled to receive their inheritance at age 18 poses all sorts of dangers.

The age of 18 is very young to inherit. In contrast most wills seek to increase the age of inheritance to 21 or 25.

Where there are no children other family members have a right to benefit in the estate.

This may not be such a good thing. Elderly relatives may have no need of the funds and indeed an inheritance at this stage may upset their own inheritance tax planning.

Furthermore, who is to say whether the deceased wanted such family members to benefit anyway?

Unsuitable

Failure to make a will denies the deceased the opportunity of naming suitable people in the form of executors to administer the estate.

Instead beneficiaries administer the estate of the deceased, they may not be suitable to deal with large sums of money or in some cases a business.

In short, in nearly all cases, failure to make a will leaves too much to chance.

Making a will is a must, not an option.

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