

A Guide to Intestacy



1 What is Intestacy?

This is the name given to the process that takes place when you die without leaving a Will. Everything you own will be given to your relatives in accordance with rules set out by law.

2 How do know if I am entitled to a share of the estate?

It depends on how closely related you are to the person that died. The order of the people that can inherit is set out by law. Generally, the more closely related you are to the person that died, the more likely you are to inherit from their estate.

3 What is the process?

The process is similar to the estate administration process followed when someone left a Will.

The very first step is to identify relatives that are entitled to inherit from the estate which can be very complicated if someone has a large family. Once relatives have been identified, they

will need to prove they are related to the person that died by producing documents such as birth certificates, death certificates and marriage certificates. At this point, the relatives need to decide which person or people are going to act as administrators.

4 Your spouse does not automatically receive everything you own

If you are married, your spouse may not receive everything you own as it

depends on the value of your estate and whether or not you have children.

5 Unmarried partners and step-children do not receive anything

If you are not married, then your partner will not receive anything. This applies even if they are your 'common law partner'.

Even if you are married, your step-children will not receive anything unless they were formally adopted. This could result in a distant relative receiving your estate if your spouse dies before you.

6**Relatives you have never met may inherit everything you own**

The rules of intestacy mean that only family members (related by blood) may inherit your estate. This could mean someone you have never met may inherit everything you own simply because they are related to you.

7**If you do not have any family, the crown will take everything you own**

If there are no known family members alive when you die, your estate may pass via 'bona vacantia'. This means everything you own will be given to the crown.

8**Intestacy can result in more Inheritance Tax being paid**

The person that died has no control over how much each relative receives as this is decided by law. This can result in additional Inheritance Tax being due to HMRC, for example if both a spouse and children inherit.

However, a Deed of Variation can be used to change the amount of Inheritance Tax paid.

9**What is a Deed of Variation?**

A Deed of Variation is a document which changes the terms of somebody's inheritance.

If you give your inheritance away to somebody else, it is treated as a gift made by you. However, if you complete a Deed of Variation, it is treated as a gift made by the person that died. In some situations, this can change the amount of Inheritance Tax due and in some cases result in a significant saving.

There are strict time limits for Deed of Variation and they must be completed within two years of the date of death.

If you would like to learn more or discuss your circumstances with a specialist solicitor then please call the team on **01625 614 250** or email us at enquiries@jobling-gowler.co.uk

Commonly asked questions:**I'm married, does that mean I will inherit everything from my spouse?**

Maybe. It depends on how much was left by your spouse and whether you have children.

My spouse died before me, will my stepchildren inherit if I die without a Will?

No. Your step-children are not entitled to receive anything unless they were formally adopted by you.

I live with my partner but we are not married or in a civil partnership, what happens to my estate?

Your partner will not receive anything. Instead, everything you own will be given to your relatives. There is a strict order which decides which relatives will inherit.

I'm not married but have a common law partner. Will they receive anything when I die?

Common law partner is a term many people use to describe a person that is in a long term relationship but has not married. A common law partner is treated the same as an unmarried partner and will not receive anything.

I'm not married and do not have children. What happens?

Everything you own will be given to your relatives. There is a strict order to decide which relatives will inherit.

I'm not married but do have children. What happens?

Everything you own will be given to your children. This could include your share of your house.

I have received an Inheritance from a relative that didn't leave a Will but I want to give my inheritance to my children. Can I do this?

Yes but there may be Inheritance Tax consequences. Therefore, you may wish to prepare a Deed of Variation.

My mother died without a Will and everything she owned is to be given to her children. My brother hasn't spoken to my mother for over 50 years. Is he still entitled to a share of her money?

Yes, he is entitled to the same amount as you.

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Jobling Gowler Solicitors 250 Park Lane, Macclesfield, Cheshire, SK11 8AD

Tel: 01625 614250 | Fax: 01625 614252 | DX 25025 Macclesfield 2 | www.jobling-gowler.co.uk | Email: enquiries@jobling-gowler.co.uk | 