

WHAT HAPPENS WHEN SOMEONE DIES WITHOUT A VALID WILL

Is there a surviving spouse or registered Civil Partner?



Did the deceased have any children?



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The surviving spouse or registered Civil Partner will be entitled to the deceased's personal effects, the first £450,000 of the estate and a further half of any value over and above that sum

If any child of the deceased died before him but left a child or children of their own, those children take their parent's share of the deceased's estate equally between them (at aged 18 or on earlier marriage)

The deceased's estate is divided equally between his children



The surviving parent or parents of the deceased take all of the estate (if more than one is living then equally between them)



Was the deceased survived by his mother or father?



The surviving spouse or registered Civil Partner is entitled to the deceased's personal effects and the first £250,000 of the deceased's estate. Any excess is divided in two with the surviving spouse or registered Civil Partner being entitled to an income from half that excess in her lifetime, the other half of any excess passes to the deceased's children in equal shares (at aged 18 or on earlier marriage)

If the deceased has any parent(s) surviving him the surviving parents will take the other half of the excess over and above the personal effects and first £450,000 (if more than one survives then equally between them)

The estate is divided equally between the deceased's brothers and sisters (with the children of any brother or sister who did not survive the deceased taking in his or her stead)



Are there any brothers or sisters of the deceased?



If any child of the deceased died before him but left a child or children of their own, those children take their parent's share of the deceased's estate equally between them (at aged 18 or on earlier marriage)

If the deceased does not have any parent(s) surviving him but is survived by brothers and sisters then those brothers and sisters take the other half of the excess over and above the personal effects and the first £450,000 (if more than one equally between them and with the children of any brother or sister who did not survive the deceased taking in his or her stead)

The estate is divided equally between the deceased's half brothers and sisters (with the children of any half brother or sister who did not survive the deceased taking in his or her stead)



Are there any half brothers or sisters of the deceased?



The surviving grandparents take equally between them



Are there any surviving grandparents of the deceased?



The estate is divided equally between those uncles or aunts (with the children of any uncle or aunt who did not survive the deceased taking in his or her stead)



Are there any uncles or aunts of the deceased (on either side of the family) living?



The estate passes to the Crown (or the Duchy of Lancaster or the Duke of Cornwall)

If the deceased has no surviving parents and has no brothers and sisters then everything passes to the surviving spouse or registered Civil Partner absolutely

Notes:

This document sets out the key principles of the rules of intestacy which apply where someone dies without a valid will and is no substitute for expert advice as to how the rules apply in particular circumstances;

The estate for these purposes is generally limited to assets in the sole name of the deceased or to jointly held assets in which the deceased had a specific share as 'tenants in common' (a house or other land may be held as 'joint tenants' or as 'tenants in common'). Assets held jointly as 'joint tenants' generally pass automatically to the surviving co-owner(s).

A registered Civil Partnership is one created under the Civil Partnership Act 2004 between a same sex couple. Co-habiting partners i.e. who have not married or entered into a registered Civil Partnership have no automatic entitlement under the rules of intestacy.

An individual who is not entitled to benefit under these rules of intestacy may still be able to make a claim on the deceased's estate (particularly a co-habiting partner of the deceased or someone who was financially dependent on the deceased prior to his death). Anyone who believes they have such a claim should seek expert advice as soon as possible as there are time limits for bringing a claim.