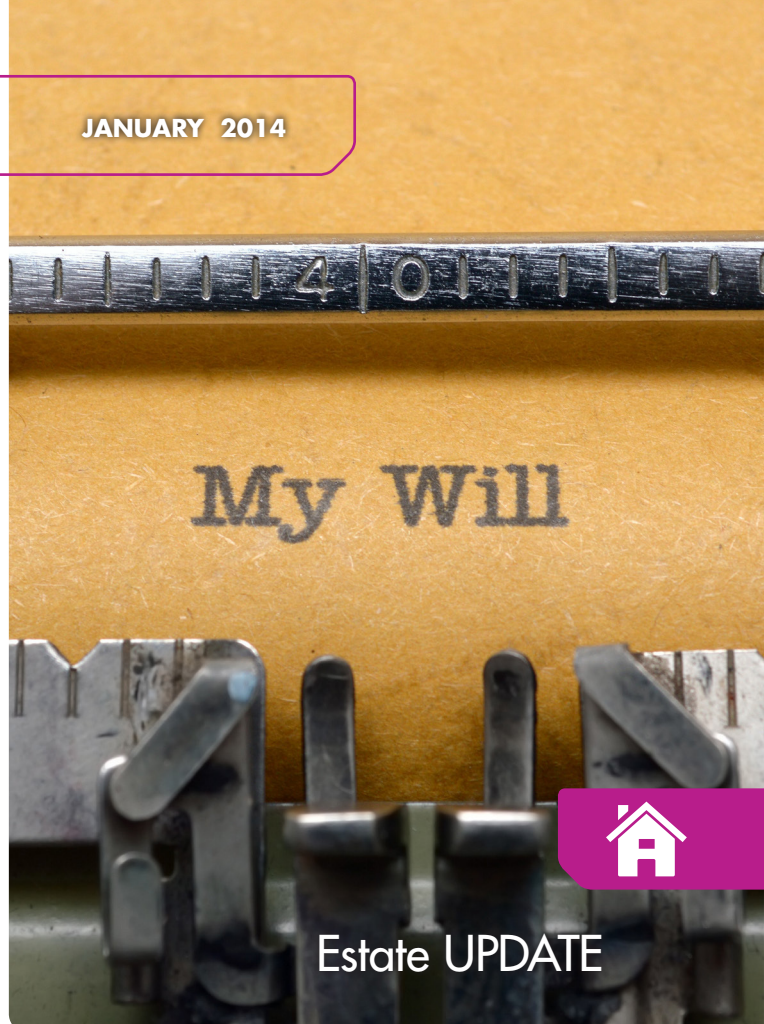




## Teachers Financial Planning

# Wills and intestacy

This guide looks at who needs a Will, what a Will should include and what happens if you don't have one.



Estate UPDATE

## Do you need a Will?

If you own property, including a home, car, investments or business assets then yes, you do need a Will. Without a Will you will have no control over what happens to your belongings and property when you die.

## What should a Will include?

Your Will should include details of:

- What you own – including property, cars, valuables, stocks and shares, ISAs and other investments, bank accounts, insurance policies, business assets and pensions
- Who you want to leave your assets to – this is important and should include how you want them divided between family, friends and charities. It should also include any conditions you would like to impose
- Your family and status – whether you are married, in a civil partnership, single or divorced will make a difference. It is important to include details of any children or other dependents too

- Guardians – if your children may still be under 18 when you die you should name someone as their legal guardian
- Particular wishes – you might have requests for your funeral. For example, whether you wish to be buried or cremated
- Executors – these are the people you want to carry out the administration of your Will after death. They must be named in your Will but could be family, friends or a professional. Someone who is familiar with your financial affairs is ideal
- Signature – a Will isn't effective until it has been signed and witnessed. There are rules about witnesses that could make the Will invalid. These include the requirement that witnesses and their husbands, wives or civil partners cannot benefit from the Will.

## Once the Will is made

You must find a safe place to store your Will and make sure you tell your executors or a close relative or friend where it is. It may not be needed for many years but it will be very important to find it. You could also consider providing your executors with certified copies of your Will in case the original cannot be located.

## Dying without a Will

Dying without a Will is known as dying intestate and means that your estate will be distributed using intestacy rules. The rules of intestacy vary.

## Intestacy in England and Wales

**Married partners, civil partners, children, grandchildren, parents and siblings**

If you die without a Will in England or Wales, married partners or civil partners will only inherit if you are actually married or in a civil partnership at time of death. So those whose marriages or partnerships have legally ended will not inherit under the rules of intestacy.

If there are surviving children, grandchildren or great grandchildren of the person who died and the estate is worth more than £250,000, the legal partner will inherit:

- All personal belongings (chattels)
- The first £250,000 of the estate
- A life interest in half of the remaining estate. You will not be able to sell or spend that part of the estate but you are able to benefit from it during your lifetime.



# Wills and intestacy

The children get the rest, shared equally.

If there are no surviving children, grandchildren or great grandchildren, but there are surviving parents and the estate is worth more than £450,000, the partner will inherit:

- All personal belongings
- The first £450,000 of the estate
- One half of the remaining estate.

The parents will inherit the rest, equally. The same rules apply if there are no surviving children, grandchildren, great grandchildren or parents but there are surviving brothers or sisters. They will inherit the remainder equally.

## Jointly owned property

If the partners were beneficial joint tenants (i.e. they own the whole property jointly and equally) in their home at the time of death the surviving partner will automatically inherit the other partner's share of the property. These rules do not apply if the partners are tenants in common (i.e. they own the property in distinct shares or proportions, e.g. 40/60 or 50 per cent each).

The same goes for joint bank accounts. If one partner dies, the other partner will automatically inherit all the money.

Property and money that is inherited by the surviving partner does not count as part of the estate of the person who has died when it is being valued for intestacy rules.

## Where there is no surviving partner or civil partner

If there is no surviving partner, the estate is distributed to the following beneficiaries in the following order and equally if there is more than one.

- Children (if any have died leaving children or grandchildren then they will receive their parents' share)
- Parents
- Brothers and sisters or their children if deceased
- Grandparents
- Uncles and aunts or their descendants
- The Crown (Government).

## Who can't inherit?

The rules of intestacy mean that the following people have no right to inherit:

- Unmarried partners
- Same sex partners not in a civil partnership
- Relations by marriage
- Close friends
- Carers.

## Intestacy in Scotland

### Prior rights are settled first

After debts and other liabilities have been met, a widow, widower or surviving civil partner has prior rights to heritable property and moveable estate when no Will has been left.

Heritable property means land and buildings, moveable property includes money, shares, cars, furniture and jewellery.

A surviving married or civil partner is entitled to:

- The dwelling house of the deceased that they were living in at the time of death, to the value of £473,000
- Up to £29,000 worth of any furnishings or furniture in that house

- The first £50,000 cash of the estate if the deceased left children
- The first £89,000 cash if the deceased left no children.

## Legal rights

Legal rights come after prior rights and mean that the surviving legal partner is entitled to:

- One third of the moveable estate if the deceased left children or descendants of children. This increases to one half if there were no children or descendants.

The children are collectively entitled to one third of the deceased's moveable estate if the deceased left a legal partner or to half if there is no spouse or civil partner. Each child has an equal claim.

## Other rights

After prior and legal rights have been taken care of the remainder of the estate is devolved in the following order.

- Children take the whole
- Either or both parents and brothers and sisters (half to parents and half to brothers and sisters)
- Brothers and sisters take the whole
- Either or both parents take the whole
- Husband or wife or civil partner – surviving spouse takes the whole
- Uncles or aunts take the whole
- Grandparents take the whole
- Brothers and sisters of grandparents take the whole
- Ancestors of intestate remoter than grandparents on both sides take the whole
- The Crown takes the whole.

As you can see, the rules of intestacy are varied and complex, making it ever more important to have a Will.



Please contact us to find out how we can help you.

## Important information

The way in which tax charges (or tax relief, as appropriate) are applied depends upon individual circumstances and may be subject to change in the future.

FCA regulation applies to certain regulated activities, products and services, but does

not necessarily apply to all will, estate and tax planning activities and services.

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