

What if I die without a will?

If you die without a valid will, the **law of intestacy** will decide where your estate goes. This factsheet explains who will inherit your estate, which will depend on the nature of your family relationships.

If you have a partner

If you are married or in a domestic partnership, but you do not have children, the whole of your estate will go to your **partner**.

If you have a partner and children – estates worth \$120,000 or less

If you have a spouse or domestic partner and at least one child, and your estate is worth \$120,000 or less, the whole of your estate will go to your **partner**.

If you have a partner and children – estates worth more than \$120,000

If you have a spouse or domestic partner and at least one child, and your estate is worth more than \$120,000:

- your **partner** will get \$120,000 plus half of the balance of your estate
- your **children** will get the other half of the balance of your estate in equal parts.

Your partner will also inherit your personal property including sentimental items and any motor vehicles you own.

If you have children but no partner

If you have children but no spouse or domestic partner, your estate will be shared equally among your **children**.



If you have grandchildren but no children or partner

If all your children have died before you but you have grandchildren, your estate will be shared equally among your **grandchildren**.

If you have children and grandchildren but no partner

If you had more than one child but a child has died, leaving a child or children (your **grandchildren**), then your estate will be shared equally among your surviving **children**, with the portions that would have gone to your deceased child or children going instead to their children in equal shares.

DID YOU KNOW?

Under the law of intestacy, **children** includes adult and minor children and any adopted children, but does **not** include **stepchildren**.

Stepchildren may be able to apply for a family provision order. See [Who can contest my will?](#)

If you do not have a partner or children or grandchildren

If you die without a partner or children, the law of intestacy sets out the order in which your other relatives may inherit your estate:

- if both your **parents** are still alive, your estate will go to them in equal shares
 - if only one **parent** is alive, they will receive the whole of your estate
- if your parents have died, your estate will be shared among any living **siblings** (such as sisters and brothers, and including half-siblings) you have
 - if a sibling has died but left **children**, those children (your nieces or nephews) will get in equal shares the portion of your estate the deceased sibling would have received
 - if **all** of your siblings have died, but left **children**, those children will receive equal shares of your estate as if they were your own children
- if you have no living parents, siblings or children of siblings, your estate will go to any living **grandparents** you have in equal shares
- if you have no living parents, siblings, children of siblings or grandparents, your estate will be shared among any living **siblings of your parents** (such as uncles or aunts) in equal shares
 - if one or more of your parents' siblings has died but left children (your **first cousins**), they will get in equal shares the portion of your estate their deceased parent would have received
- if you have no living parents, siblings, children of siblings, grandparents, siblings of your parents or first cousins, but your **first cousins** left **children**, they will be entitled to the portion that would have gone to their grandparent in equal shares.

If you have no living relatives

If you have no living relatives that fall within the listed categories and you die without a will, the whole of your estate will go to the **Government**.

Things to consider if you do not have a will

The law of intestacy may be changed if someone applies to the Supreme Court for a family provision order. See [Who can contest my will?](#) for the categories of relatives who may apply for family provision and what the Court will consider.

You may wish to consider the following questions if you do not currently have a will:

- Will your loved ones be looked after if you die unexpectedly?
- What if you and your partner die at the same time?
- Would you prefer your children or other beneficiaries to inherit your estate when they are older than 18 (such as when they turn 25)?
- Is there likely to be a claim for family provision against your estate?
- How will the Supreme Court know what your wishes are in the absence of a will?
- If you have no living relatives, would you prefer your estate to go to the Government or to a friend, charity or organisation of your choice?

If any of these questions cause you concern, you should seek legal advice.

Having a will prepared by a wills and estates lawyer is the best way to give legal force to your wishes and values. You can ensure your loved ones are provided for and reduce the chance of a successful family provision claim by someone you would prefer not to inherit a part of your estate.