



# The Bigger Picture



**For a Will to be valid, you must:**

- ☛ Be aged 18 or over
- ☛ Make it voluntarily and with a sound mind
- ☛ Put it in writing
- ☛ Sign it in front of two witnesses, who must be present at the same time and be over the age of 18, and get them both to sign it too

we need to talk about...

# when I lost my Mum - and she hadn't made a Will

A death in the family is almost unbearable to contemplate. When a loved one dies without leaving a Will as a record of their wishes, it can lead to even more heartache. Jacqui Lazare, a solicitor at Withy King in Bath, explains why Wills are so important.

**T**here is a common misconception that when someone dies, their worldly possessions will automatically pass on to their nearest and dearest. Unfortunately, it's not as simple as that. The rules of intestacy which dictate what happens to a person's belongings, money, home and other assets are complex. In addition, these rules rarely reflect what individuals or couples intended for one another and their families, after their death.

A new law which comes into effect on 1 October, updates some of the main intestacy rules but in reality, the changes are unlikely to make much difference to many people. Unmarried couples and step children, for example, will still not automatically inherit if their partner or step parent dies without leaving a Will.

We were contacted recently by a family devastated by the sudden death of their mother at the age of 51. She left her husband, two grown-up sons and a step-daughter, who had lived with

them since she was a toddler. Kate (not her real name) had told friends she didn't see the point of making a Will as she just wanted everything to go to her husband and children. What she hadn't realised, was that intestacy rules would dictate how her estate was divided. Her family were convinced that the rules did not reflect her intentions.

Kate's eldest son, Jamie (also not his real name) said: "This has added a huge amount of tension and anxiety at a very difficult time for all of us. I know my mum would have wanted our step-sister to have something but it's out of our hands at the moment. The whole process is costing a lot of time and money and my dad is off work with stress. There is talk of us having to sell the family home to pay inheritance tax and other bills which none of us were expecting and my mum wouldn't have wanted. A Will wouldn't have taken away the pain of losing our mum, but it would have given us clarity over her wishes and with it, the opportunity to grieve properly."

In Kate's family's case, her husband will receive all her personal belongings, together with what's known as a "fixed sum legacy" (currently £250,000) and one half of what is left of her estate, once her belongings and the fixed sum legacy

have been paid. The remaining half of the estate will be shared between her two sons. Her step-daughter is not automatically entitled to anything.

It's worth pointing out that although receiving a £250,000 fixed sum legacy together with one half of the remainder of the deceased person's estate may seem generous, the value of property prices in Bath and surrounding areas has risen to such an extent that there are many cases where the surviving spouse cannot afford to continue living in their home. In addition, where there is no Will, opportunities to maximise available tax reliefs are missed, and inheritance tax often becomes payable, further increasing the financial burden.

A lot of this uncertainty and anguish can be avoided. Making a Will puts you in charge of your own affairs. You may, for example, have specific pieces of jewellery which you would like to leave to particular individuals or a

beneficiary in mind for your holiday apartment. However simply you decide to apportion your personal belongings, home and other assets, by making a Will you leave a clear record of your wishes. This means it is much less likely

that any feelings of uncertainty, insecurity or even bitterness would be felt after your death, thereby

avoiding family disputes and in the worst case scenarios, expensive court battles.

Moreover, if you die intestate, your beneficiaries may find themselves facing an unnecessary and potentially significant, tax bill. However, you may be able to reduce or even avoid inheritance tax entirely if you take professional advice and prepare your Will in the right way.

**“ This has added a huge amount of tension and anxiety at a very difficult time for all of us. ”**

**JACQUI LAZARE is a Wills, estate planning and charities specialist based at Withy King in Bath. For further information about Wills or any other private client matter, please contact her on 01225 730100 or email jacqui.lazare@withyking.co.uk**



## THE FIRST THREE THINGS YOU SHOULD KNOW IF...

... you don't leave a Will when you die

### YOU DON'T DECIDE WHO GETS WHAT

The Inheritance and Trustees Power Act 2014 which comes into force on 1 October brings in some changes to the intestacy rules (among other things), and these changes affect how your estate is divided when you die without leaving a Will. Your estate will be administered by an executor appointed in line with the intestacy rules and not necessarily someone you would choose. The process is also often more expensive.

#### ☛ DO:

**Make a Will which sets out your wishes and appoint someone you trust to administer your affairs.**

#### ☛ DON'T:

**Leave it to the Law to make such important and personal decisions on your behalf.**

### YOUR FAMILY MAY BE BURDENED WITH AN UNNECESSARY TAX BILL

Inheritance tax is applied to estates worth more than £325,000 (or £650,000 for married couples on the death of the second spouse, where they inherited everything on the death of the first spouse). With the average asking price of houses for sale in Bath reaching £527,089 in June (source: www.homes.co.uk), many ordinary families are being affected. However, inheritance tax can be offset by careful planning.

#### ☛ DO:

**Speak to a professional and get advice on how to minimise your inheritance tax bill**

#### ☛ DON'T:

**Leave it to your family and friends to bear the cost**

### YOUR FAMILY MAY END UP FALLING OUT

Statistics show that family members are far more likely to fall out with one another over their inheritance when there isn't a Will to clarify things. Disputes and expensive court battles are more likely to arise and often lead to the breakdown of family relationships.

#### ☛ DO:

**Make it clear who you would like to inherit your personal belongings and assets in a Will.**

#### ☛ DON'T:

**Let disputes get out of hand. Come and talk to a solicitor or trained mediator who may be able to help you reach an agreement before it's too late.**