

Unmarried Couples - Putting Your Affairs in Order

If someone dies without making a Will, they are said to be "intestate". The Government recently introduced changes to the intestacy rules which will have far reaching consequences for the majority of people in the UK who do not have a will. Where a couple are married or there is a civil partnership and one of them dies leaving behind children, then the surviving partner will now receive a maximum of £250,000 from the estate, regardless of its value. However, they should not assume that they are automatically entitled to everything. The best way to provide for your family is to make a Will.

However, the new intestacy rules do not apply to couples who are not married or there is no civil partnership and there is no will.

The scenario: An unmarried couple own a house as 'beneficial joint tenants'. He dies intestate and there is no separate agreement between them about their house.

Question: *What does his surviving girlfriend receive?*

Answer: She receives the house because in simple terms the surviving joint owner takes the whole asset whether or not there is a will. However, this is subject to taking on any mortgage which she may or may not be able to afford and which the lender may or may not approve. She gets nothing else under the rules of intestacy even if the couple have been together many years and have been married in all but name. This raises many problems for the surviving partner at a time of bereavement and when she is possibly least able to deal with them. For instance:-

- Will she have enough to live on or will she have to consider a claim from the deceased's estate for reasonable provision? It is not as generous for a surviving partner as it would have been had the couple been married. How would such a claim affect relationships with members of the deceased's family and how disappointed is the surviving partner in finding that certain rules do not work in her favour?
- Inheritance tax is not generous in that she cannot make use of any spouse relief. If the estate or the house is a good size, there could be an inheritance tax bill which would reduce the amount available in the estate.
- The payment of any mortgage could be tricky for both her and the estate if both sides are not agreed or there is no life cover given as collateral security for the lender.
- The deceased might have death in service benefits but could they be payable to the surviving partner or will it end up in the estate? The couple's unmarried status introduces a greater element of uncertainty in this respect.

Therefore, think the unthinkable:-

- Would there be any merit in getting married?
- What would happen to your home if one of you dies?
- Have you made a Will? To whom do you owe a legal duty? A moral duty? For whom would you like to provide?

- Pensions and death in service benefits are not the most thrilling things to deal with but they can provide a lifeline to those we leave behind if the appropriate arrangements are made whilst we are alive.

Therefore, it is important that you seek the right advice and make a will because it may prove invaluable to you and your family in years to come.

For further information and advice, please contact our Probate Team on either 01306 880110 or 01483 861848.