



Unmarried Couples

Unless you have made a Will, your partner could get nothing!

Your entire estate would pass to your children, or if you had none be shared between your parents or brothers and sisters. There is no provision for unmarried partners in Intestacy Laws. An unmarried partner is not provided for under these rules no matter how long you have been together.

Many unmarried couples have basic Wills that simply leave all their assets directly to their partner on the first death. This approach provides financial support to the survivor, but it also misses several possible planning opportunities:

Saving Inheritance Tax

IHT will be payable at 40% on the value of an estate more than the Nil Rate Band (2017/18 £325,000). In this case, a well written Will can potentially save £130,000 in Inheritance Tax plus any growth in the value of the assets which would, without a suitable Will, be paid upon the death of the survivor.

Marriage After Death

If the surviving partner does marry, a Will can ensure that the assets remain accessible to only the surviving partner and other beneficiaries of your choice (for example, your children); they are not taken into the subsequent marriage.

Divorce of a Beneficiary, Bankruptcy and Care Fees

A Will can avoid the inherited assets being included in a beneficiary's divorce settlement, from creditor claims or bankruptcy of a beneficiary and being included in the calculation of assets used for assessing an individual's care costs.

If your main asset is your home can you still address these risks?

Yes. Most couples own their homes as joint tenants so on the first death the house passes automatically to the survivor. However, this limits the planning that can be undertaken. If the joint tenancy is severed the property will be held as tenants in common instead. This leaves each individual free to use their Will to direct how their interest in the house should pass on their death.

Many couples will want to provide for their partner as a priority. However, this can still be achieved without leaving all the assets to the surviving partner directly; a simple trust can be used to provide protection for the assets while still giving the survivor access to them.

For example, on the death of the first partner their interest in the home could be placed in a Discretionary Trust. The surviving partner would be a beneficiary of the trust and usually a trustee too. The addition of this simple step would provide protection from the various financial risks outlined above. However, the survivor would still be able to live in the house rent free and to move to a new house if they wished to do so.