

MAKING YOUR WILL



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BERRY  SMITH  
THE LEGAL SOLUTION

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## **MAKING A WILL IS A MUST NOT AN OPTION!**

Making a Will is an important step that everyone should consider and our private client department are here to help you every step of the way. You will be surprised and disappointed with the way that the law dictates who will benefit from your estate when you do not have a Will as the table on the last page of this guide illustrates.

## **WHY MAKE A WILL?**

### **PROTECTING YOUR PARTNER**

Unfortunately, the law does not automatically recognise partners as having the same rights as husbands and wives and the concept of a “common law husband or wife” does not actually exist under the law. As a result, even if you have lived together for many years, your partner maybe left with nothing (even the house you lived in together) unless you have made a Will.

### **PROTECTING YOUR SPOUSE**

Marriage automatically cancels any Will you have made unless a contrary intention appears in that Will. If you do not make another Will after getting married your estate will be distributed in accordance with the intestacy rules (see back page) which could mean your spouse may not even be entitled to live in your family home.

### **PROTECTING YOUR YOUNG CHILDREN**

It is important to protect your children’s future by choosing legal guardian(s) to be responsible for their upbringing in the event of you dying while they remain under the age of 18. If you do not specify anyone the responsibility may be left with your surviving relatives or the courts and the children may have to live with someone you would never have chosen yourself.

### **PROTECTING YOUR WEALTH**

If your estate is worth more than an amount specified by the government it will be subject of the rules governing inheritance tax.

Berry Smith can advise on the most tax efficient way to distribute your estate together with tax planning ideas for you to consider during your lifetime ensuring the taxman has as little as possible of your hard earned wealth.

### **PROTECTING CHILDREN OF EARLIER RELATIONSHIPS**

If you do not make a Will your current spouse may receive the bulk of your estate (if not all of it) leaving your children from an earlier relationship with absolutely nothing. Without a Will your spouse will have no obligation to provide for your children after your days. We can advise on the various trusts that can be set up to ensure both your spouse and children’s needs are catered for in a fair way.

### **PROTECTING YOUR BENEFICIARIES**

If your family inherit your estate under the intestacy rules they get their inheritance outright. If they are going through a divorce or bankruptcy the inheritance can be swallowed up leaving your beneficiary little if

anything to benefit them. At Berry Smith we can advise on the steps to take to benefit your chosen beneficiaries to avoid these problems.

### **PROTECTING DISABLED & VULNERABLE DEPENDANTS**

Disabled or vulnerable adults may not be able to handle large or small sums of money left to them in your Will or inherited via the intestacy rules. Any inheritance they receive will be included in any assessment made for means-tested benefits which could result in them losing out on all their benefits until they have spent all their inheritance.

Leaving them out of your Will completely can create even more problems as local authorities can now apply to the court on their behalf asking the court to vary the contents of your Will. We can advise on the most appropriate trust for your particular situation to ensure your beneficiaries retain all their benefits and inheritance after your days.

### **PROTECTING CHILDREN FROM INHERITING AT 18**

If you think 18 is too young for your children to inherit a large sum of money (which is when they will inherit without a Will) you can specify in your Will that they inherit the capital sum at a later age such as 21 or 25.

### **PROTECTING YOURSELF DURING A DIVORCE**

If you die before the divorce is finalised your spouse may inherit everything you own under the intestacy rules or via any Will you made during happier times. Simply separating from your spouse does not invalidate the contents of your Will. We would recommend all clients going through the divorce procedure review their Wills at the earliest opportunity.

### **PROTECTING & RESPECTING YOUR WISHES**

Your executors and trustees are those who will administer your Will and any trusts you have made after your death. They will collect in all your assets, pay off any debts that you owe and make sure that the terms of your Will and your wishes are followed.

Without a Will the intestacy rules dictate that your representatives will be your closest relatives – they could be elderly or simply unsuitable. Make your Will and appoint someone you trust who will carry out your wishes.

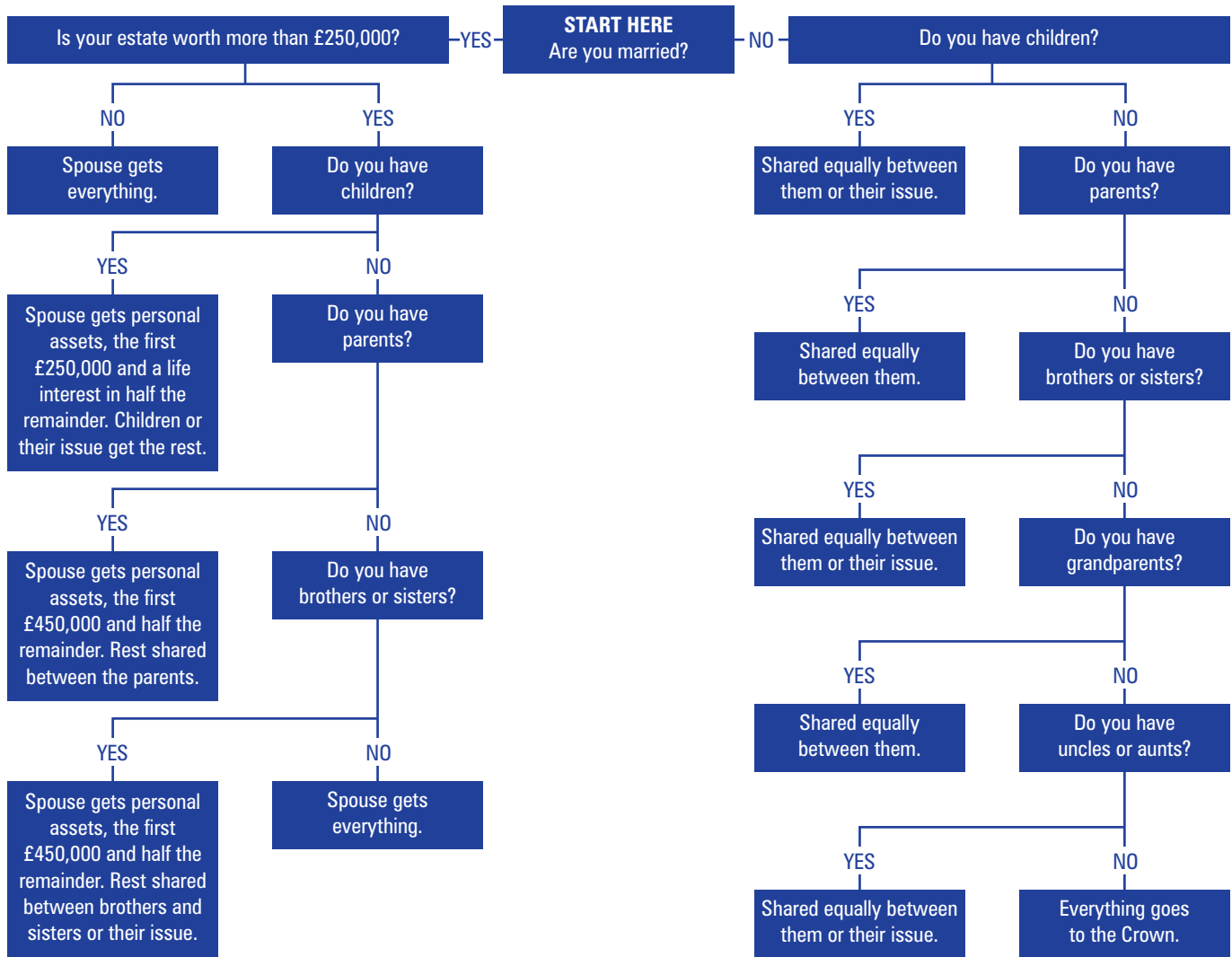
Our private client department offers expert advice on:

- Inheritance tax planning
- Administration of estates
- Trusts
- Lasting powers of Attorney and Receivership
- Probate disputes

### **RULES OF INTESTACY**

As you can see from the table overleaf, friends and charities receive absolutely nothing and even immediate family members can miss out completely on an inheritance. If you do not do anything to ensure that your family, your wealth and your wishes are protected after your death then the general law will decide this and very likely not in the way you would have wanted.

## BASIC RULES OF INTESTACY



For further information, please contact Chris Beames – Partner on 02920 345511 or 01656 645525 or email [cbeames@berrysmith.com](mailto:cbeames@berrysmith.com)

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