



WILLS & PROBATE

Wills and probate considerations for same sex couples

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A large proportion of same sex couples are neither married nor in a civil partnership which can have implications when it comes to inheritance matters.

While the law treats everyone the same when it comes to Wills and probate, there are several considerations to take into account if you are in a relationship but are not married nor in a civil partnership.

Recent figures suggest that only 50% of same sex couples have made their partnership official. If someone in this situation dies without putting a Will in place, then it is possible that their partner won't inherit anything.

When a Will has been made

By making a Will, you can ensure that your assets pass to the beneficiaries of your choice. Couples who are married or in a civil partnership can leave their entire estate to their spouse or partner and it will be exempt from Inheritance Tax (IHT).

If couples are not married nor in a civil partnership, then their estate may be subject to Inheritance Tax. The value of assets which would automatically transfer to the surviving partner in a marriage or civil partnership, such as joint bank accounts or property held as joint tenants, will also be included in the Inheritance Tax calculation. This can leave the estate with a substantial bill to pay, for example where a share in a home forms part of the estate.

A partner's entitlement where there is no Will

If someone dies without making a Will, then their partner will automatically become the owner of any

jointly held assets including bank accounts. Where there is a jointly owned property, held by two people as joint tenants, then that property will also become solely owned by the survivor. (Note that if the method of joint ownership is not a joint tenancy, then the deceased's share does not automatically pass to the other owner.)

Otherwise, a partner who is neither married nor in a civil partnership is not entitled to receive anything, with the rules of intestacy meaning that the estate will pass to family members of the deceased.

This includes any home that they may own jointly as tenants in common, meaning that their late partner's share would then pass to family members, who might try to force a sale.

The surviving partner may possibly have a claim on the estate under the Inheritance (Provision for Family and Dependents) Act 1975 if they had lived with the deceased for two years or more or were financially dependent upon them.

By taking expert advice, you can consider how to legally minimise your Inheritance Tax liability and put a carefully drafted Will in place to safeguard your loved ones and ensure your estate passes to the beneficiaries of your choice.

If you would like to discuss Wills or estate planning, call David on 020 8670 0917 or email him at david@marcus-bishop-associates.co.uk.