

I don't need a will - do I?

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Well that really depends on whether you are happy for your estate to pass in accordance with the law or in accordance with your own wishes – which may differ significantly!

I always use myself (a few years back now) as a good example as to why a will is important. At that time, I was living in a free hold property which was owned wholly by my partner, but to which I contributed half the mortgage and costs. We had been together a number of years, but were unmarried and neither of us had a will. Did it matter? Would either of us be left in a mess if something happened to one of us? In short, yes!

Jersey succession law, which determines how your assets pass on your death, and whether your will is valid, is unusual and interesting. It is a complex mix of influences from English common law and French civil law.

Firstly, the concept of a 'common law' spouse is not recognised in Jersey. If you are in a long-term relationship but are unmarried or do not have a formal civil partnership, then you have no automatic rights under the law to inherit any part of your partner's estate which is held in their sole name should they die without a will.

If the deceased person has no descendants or spouse, then their heirs under Jersey law would be their siblings or their sibling's/s' children (if a sibling(s) had predeceased leaving children of their own), or, if they were an only child, their surviving parent or parents.

If both parties contribute to and are jointly liable for the payment of a mortgage on a property, but the property is in the sole name of the deceased and they did not leave a will, then the property will pass to their heirs as determined by the law (see above). In my case, this would have been my partner's three siblings. I would have been contributing to the payment of a mortgage on a property for five years and then would have had no right to any part of the legal title of that property on his death.

Thankfully my partner and I have now resolved any possible issues by (1) buying a new house in our joint names (jointly held assets, provided they are held on a survivorship basis, pass

automatically to the surviving party on the death of the first) (2) having children (so we have direct descendants who take priority in succession to siblings and parents) and (3) writing wills.

But the position could have been very different!

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