

Money | Special reports

Investing Property Bills Insurance Pensions Banking Tax A Z Financial Solutions Telegraph Investor

FTSE 100 ▲ 6980.58 +0.18%	FTSE 250 ▼ 18752.76 -0.06%	GBP/USD ▼ \$1.2870 -0.03%	GBP/EUR ▼ €1.1328 -0.03%	BRENT OIL ▲ \$62.62 +0.18%	BITCOIN ▲ \$3558.33 +0.05%	GOLD ▼ \$1277.96 -0.25%
------------------------------	-------------------------------	------------------------------	-----------------------------	-------------------------------	-------------------------------	----------------------------

[More share information on MARKETS HUB](#)

PREMIUM

Not leaving behind a will creates nightmares for families

Share Save 6



Amazingly, 34pc of over-55s have no will in place. CREDIT: BRIAN WICKSON/ALAMY

By **Harry Brennan**
12 DECEMBER 2018 - 6:56AM

Millions of people are piling pressure on their families by not getting their affairs in order before they die. Many do not even make a will, leaving bereaved relatives to untangle their estates.

If something goes wrong, it is the administrator – typically a close family member or friend who makes sure assets are passed to the right people – who is responsible and financially liable, even if they have hired a solicitor for help.

Over half of the adult population of Britain, more than 29 million people, have not written a will, according to Direct Line, the insurer. Those aged between 18 and 34 are the most likely not to have made provisions – 71pc have no will.

However, 34pc of those aged over 55, close to seven million people, also have no written instructions for how their legacy should be passed on. This means that if any of those over-55s were to die tomorrow, their wealth would be subject to the rules of intestacy.

ADVERTISEMENT

These rules say that the estate must pass to the closest surviving kin: spouses first, up to £250,000; then children; then grandchildren; then any surviving parents; then siblings; and so on down the line of relatives. If you have no surviving family, the estate goes to the Crown.

However, experts have warned that increasingly complex family arrangements, with relatives often living abroad, mean identifying the next of kin is not always simple.

Telegraph Money reader Paul Ward, 71, is pursuing a claim against the administrator of his late father's estate – a distant cousin who is now on the hook for almost £30,000.

MORE STORIES

- 1 How to reduce your inheritance tax bill without selling the family home
- 2 Forget gold: these are the real safe haven assets that will make you money in a sell-off
- 3 **Questor:** after more than two years, here is our first change to the Income Portfolio
- 4 **Borrowers left high and dry** as mortgage lenders withdraw from the market
- 5 **Questor:** after a 45pc fall last year, shares in this silver and gold miner could start to shine

ADVERTISEMENT

FOLLOW TELEGRAPH MONEY

Follow on Facebook Follow on Twitter Follow on LinkedIn

Featured Current Accounts (T&C's Apply)

Bank	Account Name	Offer	More details
M&S	Current Account	£220 M&S gift card	Apply
TSB	Classic Plus	5% AER (variable) interest on balances up to £2,000	Apply
Nationwide	Flex Direct	5% in credit interest on balances up to £2,500	Apply

To be eligible for rewards and interest rates conditions may apply such as using the full current account switching service, minimum monthly deposits and direct debits. Please see full product T&Cs for further information

Mr Ward was born Paul Dooley in 1947. His parents divorced four years later and he subsequently lost contact with his father, changing his name to Ward in 1971 when his mother remarried. Mr Ward's father was Bernard Dooley, who died in 2014 without leaving a will.

He had remarried, outliving his second wife and leaving behind only one child - Mr Ward. As the father and son had been estranged for many years, the £27,000 estate was administered and divided up between other family members.

The administrator instructed law firm JCP Solicitors to act on their behalf, but Mr Ward was never identified as the next of kin and sole beneficiary.

"It is not a huge amount, but it is my money and I have been denied my inheritance," Mr Ward said. "I bear no ill feeling toward my cousin who administered the estate, as they probably didn't even know I existed, but I wonder why the law firm didn't carry out a check to find me."

Mr Ward discovered that his father had died and his inheritance had passed on to others after he attempted to learn more about him earlier this year.

Chris Shaw of JCP Solicitors said it was the responsibility of the administrator, not the law firm, to make sure assets were passed on correctly.

"It is our understanding that the administrator of the estate questioned by Mr Ward was entirely unaware of any other potential beneficiaries," he said. "JCP's legal team acted entirely correctly throughout this process."



Mr Ward is pursuing his claim for the £27,000 estate. Credit: ANDREW FOX

Hector Birchwood of Celtic Research, a genealogy firm, traced Mr Ward's ancestry and confirmed his claim as legitimate. He added that the administrator would probably now be liable to repay the £27,000, even if they had not benefited from the estate.

"Solicitors act under the instructions of an administrator, so their liability ends there. This is when you get into the murky area of solicitors' liability, which depends on the advice given and the level of knowledge possessed by the administrator," he said.

Constance McDonnell of barristers' chambers Serle Court said the nation's apathy towards wills was "frightening". She said: "It puts the administrator in a difficult position as they have a legal duty to find the closest next of kin and give them their money. They cannot resist this responsibility unless given permission by the courts."

These days, she added, relatives may have moved abroad or cut all ties in a radical change of lifestyle. Some people do not want to be found.

If someone does emerge with a claim to the estate further down the line, there are steps administrators can take to protect themselves.

Firstly, Miss McDonnell suggested publicising the death in a local or national paper. This is used mainly so that creditors can come forward, but also allows beneficiaries to make themselves known.

You can take out missing beneficiary insurance, but whether this is worth the expense will depend on the size of the estate.

Finally, Miss McDonnell said in some cases it was possible to get court approval to distribute an estate to someone if there was concern that there might be closer kin. Again, she said this option would be worth your while only if you had enough money in the estate to afford the legal cost.

Related Topics

Your Money



Show comments

PROMOTED STORIES



How to pay zero inheritance Tax - 100% legally

subscriptions.capitalandconflict.com



99 Retirement Tips for People in Their 50s

Fisher Investments



If You Pay Less Than £5 For Your Wine Then You Must See This

Naked Wines



Lookup Your Name to See if You Are Owed a PPI Payout

PPI Revealed

Money latest

PREMIUM