

## DYING WITHOUT A WILL IS NOT HEAVEN FOR THOSE LEFT BEHIND

Dying without a will is not heaven for those left behind. Wealth distribution can be immensely complicated and spark dramatic family feuds. The parents of singer Amy Winehouse, pictured with her father Mitch, inherited her wealth. [Share on Twitter \(opens new window\)](#) [Share on Facebook \(opens new window\)](#) [Share on LinkedIn \(opens new window\)](#) [Save to myFT](#) [Lucy Warwick-Ching](#) **OCTOBER 19, 2018** [Print this page](#)

How do you want to be remembered? For the many great things you have achieved over your lifetime? Or for sparking a dramatic family feud by dying without leaving instructions for the distribution of your estate? The legendary singer Aretha Franklin died in August without a will, giving her four sons and other family members the onerous task of discovering how much she was worth — the figure could be as high as \$80m — and dividing it up. The process is expected to take years. She is not the only high-profile singer who never made a will. When Prince died in 2016 it sparked months of legal drama, with people claiming to be his previously unknown wife, child, sibling or distant relative. A judge finally ruled that his sister and five half-siblings were the heirs to the multiple millions of dollars he left behind. When British singer Amy Winehouse died without a will in 2011, her parents inherited her fortune, with the singer's father Mitch Winehouse acting as administrator of her estate. Wealth managers say it does not come as a huge surprise that wealthy celebrities do not always make wills. Millions of people around the world have not done so, with many thinking that they are too young to need one or simply too busy to draw one up. And many high-net worth families are guilty of the same omission. Aretha Franklin, who died in August, left the task of dividing her fortune to her family. George Bull, senior tax partner at RSM UK tax and accounting firm, says: "Many wealthy individuals don't want to think about death and dying, so they put off writing a will. But not having one can cause many problems. It may be tempting to say, 'It won't be my problem: I'll be dead then', but your family won't thank you for leaving them to resolve the problem which you could have addressed." The process of dying without a will, legally known as dying intestate, means that the person's assets are divided up by the state. Even if the courts choose the people you would have chosen to do the splitting up of your assets, your estate could take years to sort out. Dying intestate becomes particularly fraught for non-traditional families, such as those with stepchildren, or for cohabiting couples. If an unmarried person dies, the surviving partner has no right to inherit their assets, regardless of how long they have been in a relationship. It may be archaic, but even if you have been living together for decades, without a will your partner will not be entitled to a thing if you pass away intestate. Instead, your possessions and assets will transfer to your legal next of kin, including any children, siblings or parents. Chris Groves, a partner at law firm Withers, says he has come across many wealthy individuals who have not made a will, often because of a fear of thinking about dying. And for wealthier families, not having a will can cause particular problems. "With more money to be dealt with, the estate is more complex, there is more tax to pay, and it's more likely that the [surviving members of the] family will seek to assert rights or control over that wealth. "In other words, inheritance disputes are more likely." Groves says the probate process for international families can be immensely complicated, involving assets and tax liabilities in numerous countries that must be intricately untangled to avoid excess tax liabilities. "All of these issues could be greatly mitigated by the simple act of writing a will," he says. Franklin's son Clarence, centre, at her funeral

The number of families who are going to court to contest wills or estate planning is rising. In the UK alone, the number of High Court cases brought under the Inheritance (Provision for Family and Dependents) Act 1975 reached 158 in 2016, a 36 per cent increase on 2015, when there were 116 High Court claims. The number of claims has reached 10 times what it was in 2005, when just 15 Inheritance Act

cases were heard in the High Court. Often these cases involve parents suing children and vice versa for assets left behind by a deceased relative who has not made their intentions clear. According to law firm Nockolds, the increasing complexity of modern family structures means that there is often a larger pool of potential claimants for every estate, together with a growing risk that some potential beneficiaries will feel left out or hard done by and bring claims. Your family won't thank you for leaving them to resolve the problem.

George Bull, senior tax partner at RSM UK Groves gives the example of a client of his who died, leaving his £3m estate to his wife. They did not have any children and although the wife was urged to make a will she did not and died a few years after her husband. The wife's last years were spent in a care home and the only person to keep in touch with her — apart from her accountant — was her late husband's half-sister. But under intestacy rules, the half-sister received nothing and the entire estate went to the wife's great-nephews and their families.

When Australian actor Heath Ledger died in 2008 at the age of 28 he had a will that left everything to his parents and sisters. Ledger also had a young daughter, but he had not updated his will to include her. Dying intestate can also cause havoc for small companies. For example, a small business could face bankruptcy because nobody else can authorise payments or legally conduct everyday business after a founder or director dies.

Jamie Cox, managing partner at financial advisers Harris Financial Group in the US, points out that even if someone has made a will, they still make common mistakes. "The matter of estate planning is undoubtedly complex as family relationships and dynamics vary and can dramatically change and become litigious where money is concerned," says Stephen Fletcher, deputy chief executive of private bank Arbuthnot Latham. "It's imperative to have safeguards in place to ensure your assets are protected and to minimise family feuds and ambiguity. "A key consideration is to plan well in advance, taking time to consider who you want your assets to be distributed to, whether beneficiaries should receive access to income or capital and whether you want to create a legacy for future generations. "As a step further, you could even consider lifetime gifting and making use of tax exemptions." He says that communicating your wishes clearly to all involved parties will help erase scope for ambiguity. Fletcher adds: "Review your will periodically and when significant life milestones occur — such as the birth of a grandchild — ensure that with each update, executors and beneficiaries have clear instructions for the execution of your will."