

WHERE THERE'S NO WILL...

Making a will is easy to put off, especially if you're still young. **Jeremy Abraham of Dawson Cornwell Solicitors** explains what to do if you aren't in a civil partnership and your partner dies unexpectedly.

You had lived with your partner for many years: you were happy and never saw the need to enter into a civil partnership. Then she died. As it happens, the house was in her name and so were the savings. For some time before she died there had been talk of changing all this or, at the very least, making provision for you in her will. Sadly, none of that happened, and now it never will.

Where does that leave you? You won't have the same legal rights as if you had been civil partners, but there is something that the courts can do to help you. Time for some legal advice.

First up, you'll be told she died 'intestate'. Sounds painful, but it's just the legal term for dying with no will. Then you'll be told that her estate (everything she owned or in which she had an 'interest' when she died) will be administered under the 'intestacy rules'. That's a quaint piece of legislation that has been around since 1925 in more or less its present form. Basically, it lists those people the law considers as deserving, the priority being relatives and suchlike. However, it does not include cohabitants, either heterosexual or same-sex, and although reforms to the law are under discussion, these are a long way off. If there are no relatives, the law declares the estate 'bona vacantia' (ownerless goods) and hands the lot to the state.

At first glance, you're not entitled to anything, as the estate will go to her relatives or the state. But the provisions of the Inheritance (Provision for Family and Dependents) Act 1975 may be able to help you. If you lived together as a couple (as 'civil partners' in all but name) and you did so for at least two years immediately before she died, you can bring a claim under the act. There's no automatic entitlement, but if the court considers

that reasonable financial provision should have been made for your maintenance, you may be awarded financial provision out of the estate. How much that is will depend on your age; how long you lived together; the contribution you made to the family and suchlike (including looking after children of the relationship); as well as the size of the estate; who else had a claim on your partner (under those intestacy rules for instance); and anything else the court thinks relevant.

Better yet, decided cases have shown that generous provision may be made, especially where the relationship was a long one. If you both enjoyed a lavish lifestyle, that can also be

in the provision the court makes. So she may have died, having left you nothing, but that doesn't have to remain so.

Of course, if you had entered into a civil partnership, the position would have been much more secure. Even though there was no will, you would have had an automatic right under the intestacy rules to be provided for financially out of her estate, and the size of that provision would be roughly the same as a settlement on the dissolution of a civil partnership.

