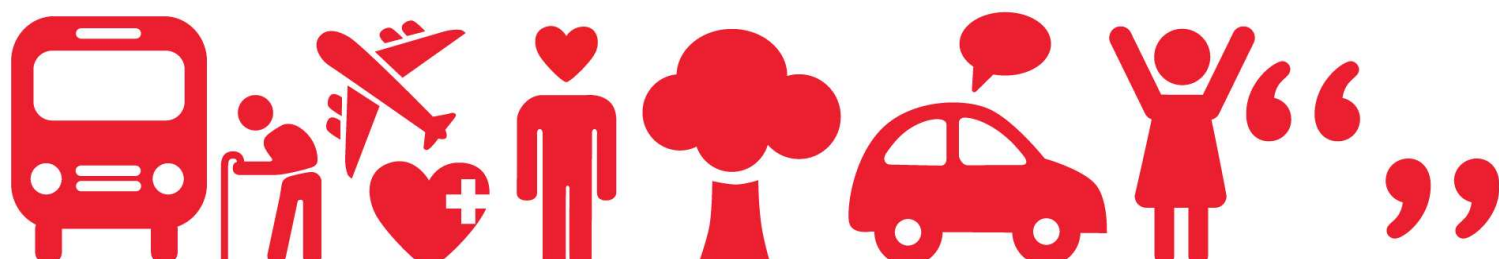


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# Inheritance and the family: attitudes to will-making and intestacy

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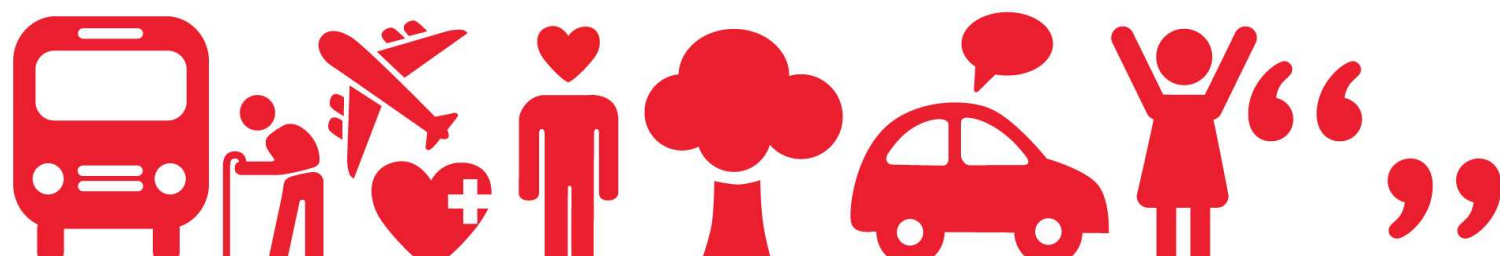
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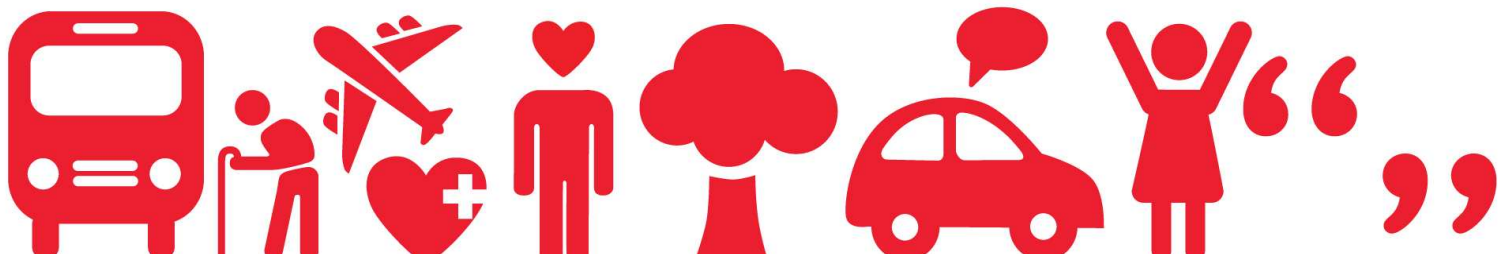
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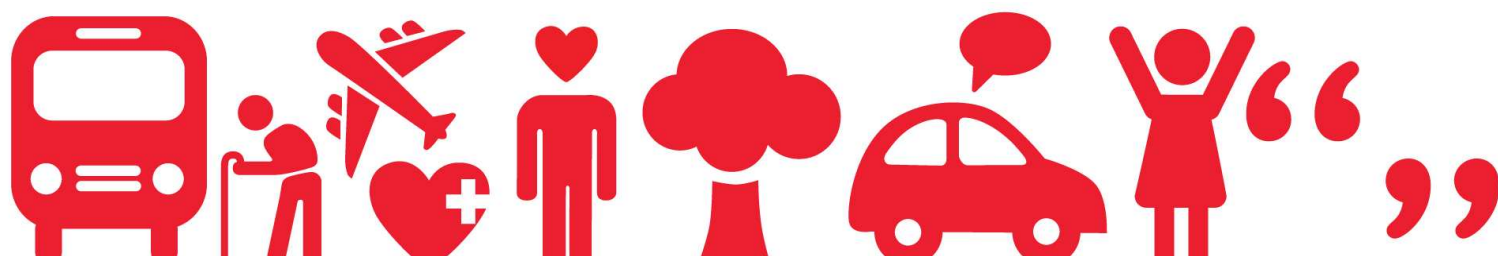
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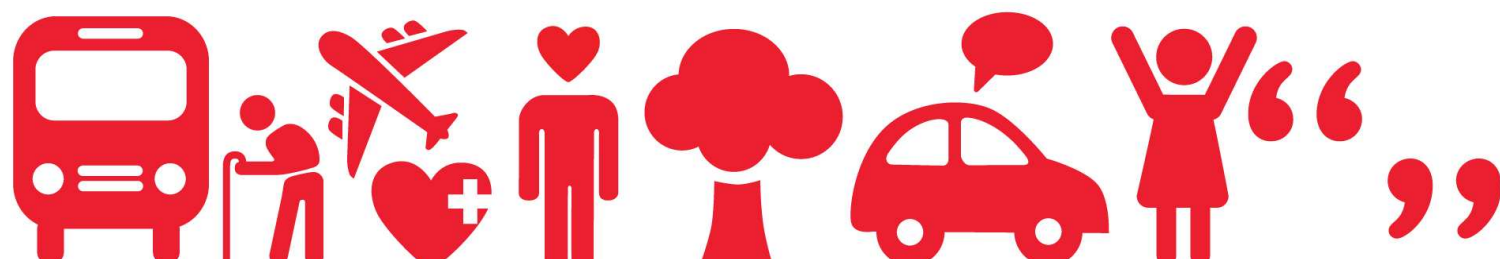
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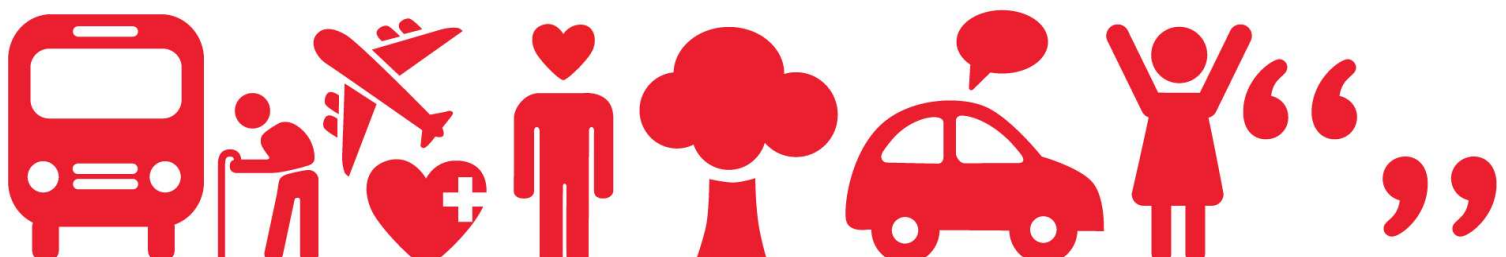
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# Executive summary

This study was conducted by NatCen and Cardiff University to help inform the Law Commission for England and Wales in conducting their review of the law of intestacy (the rules governing the disposition of property when a person dies without leaving a will) and the operation of the Inheritance (Provision for Family and Dependants) Act 1975, under which family members and dependants may apply to a court for 'reasonable financial provision' (known as 'family provision') from a deceased person's estate. It was funded by the Nuffield Foundation.

## Background

In England and Wales, testators are relatively free to leave their estate as they wish under a valid will, subject to the provisions of the 1975 Act. Where a person has died intestate, again subject to these provisions, the position is governed by the Administration of Estates Act 1925. The estate is shared amongst the family in accordance with the rules of distribution contained in section 46 of the Act. Where there are surviving children (either adult or dependent), the spouse receives a 'statutory legacy' of £250,000 and a life interest in half the remainder of the estate. If there are no children, but there are surviving close relatives, the spouse receives £450,000 and half the balance absolutely. If none of these is applicable, the spouse takes the whole estate absolutely. In the absence of a surviving spouse/civil partner or descendant of the deceased, there is provision for his or her parents, siblings or remoter blood relatives to inherit, in order of priority.

Only around one-third of adults in England and Wales have made a will. The intestacy rules are therefore of importance to the family members of a significant number of the deceased, at times of financial and emotional vulnerability. Yet these rules have not been amended (other than to increase the amount of the statutory legacy and to include civil partners) for many years, during which time there have been major changes in the growth of home ownership, and in family structure. A much larger proportion of the population is now potentially affected by the inheritance rules than in the past because of the growth in home ownership. There have also been major increases in cohabitation and in divorce and re-partnering. There are over 2.3 million cohabiting couple families (with and without children) and around one-quarter of men and women under 60 were cohabiting in 2006. The death of a partner can have major financial implications for the survivor yet cohabitants have no entitlement to a share of their partner's estate under the current rules of intestacy, and their claims under the Inheritance Act are limited to the provision of maintenance. Twenty per cent of divorces involve at least one party who has previously been divorced and over half of all divorcing couples have a child under the age of 16. Adults who are cohabiting, separated or with dependent children are amongst those least likely to have made a will yet they and their children are the most likely to be adversely affected by the lack of one.

## Aims

In this context, this study had two principal aims:

- To produce information for the Law Commission on public attitudes to how the law should handle inheritance matters, both when a will is made and when a person dies intestate.
- To discover how attitudes vary as between different groups (particularly those with children from more than one relationship, step-parents and cohabitants), regarding how they define their 'family' or the ties they view as relevant for the purposes of leaving their property after they die.

## Methodology

The research involved a quantitative survey and a qualitative follow-up study. A module of questions was developed and run on two consecutive waves of the NatCen Omnibus Survey in 2009, the second wave being used to boost the number of respondents in certain key groups of interest: cohabitants, those who had a partner who had children from a previous relationship, and those who had parents who had re-partnered. The total number of respondents for the two waves combined was 1,556. The data were weighted to correct for selection probabilities and to calibrate them to population estimates.

The qualitative research comprised 30 depth interviews with people who had taken part in the survey. A purposive sampling approach was used in order to explore a range of views and attitudes. Individuals were selected for inclusion based on their responses to key scenarios presented in the survey and according to whether they had children from multiple relationships. Expectations of receiving an inheritance, age, marital status and the value of their own property were also taken into account. Interviews lasted between 40 and 90 minutes, were digitally recorded and transcribed verbatim. The data were managed using the Framework method, a data management technique developed by NatCen and analysed thematically.

## Attitudes to inheritance in general

Interview participants viewed passing on wealth as important in order to hand things down the family line, fulfil one's responsibilities to partners and dependants, meet practical needs, and exercise autonomy through controlling one's lifetime wealth. They viewed entitlement to inherit as based on objective criteria such as kinship or length of relationship and subjective criteria such as commitment or emotional closeness. Four objectives of intestacy law were identified: to give priority to certain individuals or types of relations; to retain property within the blood-line; to maintain family stability; and to minimise the practical impact of the death on those left behind.

## Will-making

Just over a third (37 per cent) of survey respondents said that they had a will, the proportion increasing steadily with age, from 6 per cent of those aged 16 to 24 to 82 per cent of those aged 75 or over. Widowed and married respondents were more likely to have made wills whilst cohabiting and single respondents were least likely to have done so. Prevalence of will-making varied by the value of respondents' assets, from nine per cent of those with assets worth up to £10,000 to 80 per cent of those with assets valued at more than £500,000. Marital status, financial worth and age were all independently related to making a will.

Seventy-three per cent of the survey respondents who had made a will had included their children and 65 per cent had included their spouse or partner. Much smaller proportions had included other relatives, such as siblings and grandchildren and only seven per cent had included an organisation such as a charity. Giving priority to a spouse or partner in a will was regarded by the qualitative participants as the 'natural' thing to do, based on matters such as the couple's shared life and close relationship. Inclusion of children and other dependants reflected significance attached to lineage, tradition, the blood-tie, continuing responsibilities and the nature of the relationship. Where children were to inherit, this was of equal shares.



## Beneficiaries in cases of intestacy

### Spouses and civil partners

Consistent with respondents' views on including spouses in their wills, there was strong support for the surviving spouse. The majority of survey respondents favoured the surviving spouse receiving all of an intestate's estate in preference to a parent (63 per cent). Support was not as strong where the deceased had children, but overall, around four-fifths of respondents would give the spouse all or priority over other beneficiaries, reflecting the current intestacy rules.

Support for a civil partner was weaker than for the surviving spouse, 44 per cent favouring all to the civil partner and 65 per cent favouring all or priority to the civil partner (compared with 63 per cent and 84 per cent in the equivalent spouse scenario).

### Cohabitants

There was very substantial support for the cohabitant being included in the intestacy rules though not as strong as for spouses. Over half of all respondents favoured the cohabitant receiving half or more of the estate in all circumstances: ranging from 62 per cent in the case of a two-year cohabitation where the couple had a baby, to 93 per cent where the cohabitation had lasted 10 years and there were no children. The qualitative study highlighted that the presence of children and the duration of the relationship were significant factors influencing attitudes, serving as evidence of the parties' commitment to each other and interdependency, emphasising, as for spouses, the closeness of the relationship. However, interview participants varied in the length of time they suggested was required to demonstrate such commitment and inter-dependency, ranging from two to twenty years.

### Second spouses

There was much less support for the second spouse than the first. Only 15 per cent of respondents favoured the spouse receiving everything where the deceased had left grown-up children and only 11 per cent where the children were under 10; well under a half would give that spouse priority. Such views seemed to reflect a sense expressed in the qualitative interviews that a second spouse would not necessarily have the interests of the deceased's children sufficiently at heart so that provision should be expressly made for the children. Survey respondents who were themselves in a second or subsequent marriage were more supportive of the second spouse.

### Children

Although surviving spouses or partners were favoured over children, a substantial proportion of respondents favoured the children receiving *something* from the estate, ranging from 48 to 74 per cent across all the scenarios involving children. The qualitative study found that whether a child should be provided for indirectly, through the provision made to the surviving spouse/partner, or directly in their own right, depended upon how far respondents trusted the surviving spouse/partner to act in the children's best interests. There was a strong view that where children were to inherit, the estate should usually be divided equally between them.

Participants distinguished *step-children* from the deceased's own children in emphasising the lack of blood-tie, but factors such as whether they were part of the deceased's family unit or had been supported by the deceased were seen as relevant.

### Parents and siblings

In the absence of a surviving spouse or children of the deceased, respondents favoured a parent over a sibling, though just over half proposed equal sharing of the estate. Interview participants favouring the parent referred to a sense of responsibility, debt of gratitude or a view that the

siblings would ultimately inherit from them in any event; a preference for equal sharing was based on the view that these relationships with the deceased were equally close and important. Where siblings were prioritised, this was on the basis of their relative need and a preference to see an estate devolving across (if down was not possible) rather than up the generations.

If there were children but no surviving spouse or partner, participants viewed the parents' or siblings' inheritance as conditional on their meeting the deceased's responsibility for the children.

### Non-family members

In the qualitative interviews, participants were sceptical about whether a **carer** of the deceased should be included under the intestacy rules. Inclusion was seen as based on reciprocity for their generosity and time. However, entitlement was seen as conditional, either on being a blood relative of the deceased, the duration of the care, or their dependency (for example, not to lose the home they had shared with the deceased).

**Friends** were considered less important than any other group when discussing entitlement in cases of intestacy, since they were seen as being outside the family. Any entitlement to inheritance was seen as limited to situations where the estate would otherwise go to the Crown.

### Sub-group analysis

When survey data were analysed by different sub-groups, there was found to be little difference between men and women in the way they responded to the scenarios. Support for the spouse or partner increased with the age of the respondent, while support for equal sharing, or for children, was stronger amongst younger respondents.

Single respondents were more likely to favour the equal sharing options. Those in a second (or subsequent) marriage were more likely to favour the spouse or partner receiving the whole estate. Cohabiting respondents favoured the partner/cohabitant less strongly than respondents who were married.

Respondents with children of their own were more likely to favour the spouse or partner. When considering scenarios involving a second marriage, respondents with children from *previous* relationships were no more likely to favour either the second spouse or children from either the first or second marriages than those without. However, those with partners who had children from a previous relationship were slightly more likely to favour the spouse or partner, and showed a slightly lower preference toward children from a first marriage.

Multivariate analysis established marital status as the factor most frequently independently related to responses.

### Conclusion

The study shows that, when thinking about inheritance, people still view their most important relationships as centred on a narrow nuclear family model consisting of one's spouse or partner, children, parents, siblings and grandchildren. But it does not follow that such a model also assumes a 'created family' based on a permanent relationship through an unbroken marriage between heterosexuals. Cohabitation, divorce and re-partnering and same-sex partnerships are very common and widely accepted. The primacy given to a spouse (and high level of support for cohabitants) and the importance placed on recognising one's children underscored the centrality of the concept of a family rooted in partnership and parenthood. The findings of this study suggest that changes in the way people construct their family relationships mean that there is now strong

public support for law reform that expands the range of beneficiaries to include cohabiting partners (though not necessarily on an equal footing with spouse), and ensures that the interests of children from the deceased's current and former relationships are always recognised by the intestacy rules.

# 1 Introduction

## 1.1 Background

As part of their Tenth Programme of Law Reform, the Law Commission for England and Wales announced in 2008 that they would undertake a general review of the law of intestacy (the rules governing the disposition of property when a person dies without leaving a will) and the operation of the Inheritance (Provision for Family and Dependants) Act 1975, under which family members and dependants may apply to a court for 'reasonable financial provision' (known as 'family provision') from a deceased person's estate. They published their review of the law and provisional proposals for reform in 2009 (Law Commission, 2009).

The aim of this research was to inform that review by collecting information on attitudes to inheritance, and on how such attitudes vary as between different family members (including step-parents and cohabitants) regarding how they define their 'family' or the ties they view as relevant to determining how property should be left after a person's death.

### The current law of inheritance and intestacy

In England and Wales, a testator has relatively unfettered freedom to leave his or her estate as he or she wishes. A valid will is determinative of the distribution of a deceased's estate, subject to the provisions of the 1975 Act. This position is in contrast to most civil law regimes (including, to some extent, Scotland) where the testator's freedom is circumscribed and fixed shares are allocated to particular relatives (European Commission, 2005).

Where a person has died intestate, again subject to the power of the court to intervene under the provisions of the 1975 Act, the position in England and Wales is governed by the Administration of Estates Act 1925 (AEA 1925). The intestacy rules impose a trust over all the property in respect of which a person dies intestate. The residuary estate is shared amongst the family in accordance with the rules of distribution contained in s 46 AEA 1925. These rules are complex, with a focus on blood relations, spouses and civil partners rather than other social relations, and they prescribe fixed shares in the estate. Where there are surviving children (either adult or dependent), the spouse receives a 'statutory legacy' of £250,000 and a life interest in half the remainder of the estate. If there are no children, but there are surviving close relatives, the spouse receives £450,000 and half the balance absolutely. If none of these is applicable, the spouse takes the whole estate absolutely. In the absence of a surviving spouse/civil partner or issue of the deceased, there is provision for his or her parents, siblings or remoter blood relatives to inherit, in order of priority.<sup>1</sup>

Under the 1975 Act the deceased's spouse or civil partner, former spouse or former civil partner, cohabitant, child, step-child or other dependant may apply to the court on the ground that the disposition of the estate effected by the will or the law relating to intestacy does not make reasonable financial provision for the applicant. If the court is satisfied that this is the case, it has power to order that such provision be made out of the estate. A person only qualifies as a cohabitant if, for the whole of the period of two years immediately preceding the death of the deceased, he or she was living in the same household as the deceased as the husband and wife or as the civil partner of the deceased. For a person to qualify as a step-child, the deceased must have been a party to a marriage or civil partnership and the applicant must have been treated as a

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<sup>1</sup> A diagram summarising the intestacy rules is shown at Appendix H.

child of the family by reference to that marriage or civil partnership. Except spouses and civil partners, 'reasonable financial provision' is limited to that which it would be reasonable in all the circumstances for the applicant to receive for his or her maintenance.

## **The incidence of will-making and intestacy**

It is estimated that only around one-third of adults in England and Wales have made a will. Although this proportion increases with age (Rowlingson and McKay, 2005: 85), and death rates are much higher for those over pension age (ONS, 2008b: Table 4, DR\_07), it appears that nearly one-third of people aged 65 or over have still not made a will (Brooker, 2007: 3) and intestate estates for which letters of administration were granted in the five years up to 2007 averaged 57,600 per year (DCA, 2005: 20). Masson and her colleagues (Masson, 1994: 268) found that in the 40 years up to 1994, only 30 per cent of deaths resulted in a will admitted to probate, and there is no evidence to suggest that this proportion has altered significantly in the past decade or so. The default rules provided by the law of intestacy are therefore of importance to the family members of a significant number of the deceased, at times of financial and emotional vulnerability. The National Consumer Council claims that 15 per cent of the adult population of England and Wales and nearly one quarter of 55 to 64 year olds have personal experience of the human and economic costs associated with intestacy or know someone who has (Brooker, 2007: 11).

## **The impact of the law of inheritance and intestacy in the wake of social change**

Arguments about the extent to which the law meets current needs tend to focus on two important social developments which have taken place over the last few decades. The first is the growth of home ownership coupled with increasing house prices, and their consequential impact on inheritance. A much larger proportion of the population is now potentially affected by the inheritance rules than in the past. The family home constitutes most people's major asset; the proportion of owner-occupied dwellings increased by 48 per cent to 18.4 million between 1981 and 2005, representing three-quarters of total housing stock (ONS, 2007). It is not surprising, then, that a recent study has concluded that 'inheritance affects most people today. Almost half have received some kind of inheritance in the past and rather more than half think they will receive something in the future' (Rowlingson and McKay, 2005: xii).

The second development relates to changes in family structure since the 1980s, with major increases in cohabitation and in divorce and re-partnering. Between 1996 and 2006, for example, the number of cohabiting couple families (with and without children) increased by over 60 per cent to 2.3 million, such families representing 13–14 per cent of all families and being predicted to increase to 3.8 million in 2031 (Smallwood and Wilson, 2007), and around one-quarter of men and women under 60 were cohabiting in 2006 (ONS, 2008a: 19). The death of a partner can have major financial implications for the survivor (Corden et al, 2008). Yet cohabitants currently have no entitlement to a share of their partner's estate under the current rules of intestacy, and their claims under the Inheritance Act are limited to maintenance. Recent research found that only 12 per cent of cohabitants had changed a will as a result of their cohabiting relationship (Barlow et al, 2008: 42).

Just as importantly, although the annual number of divorces appears to be in decline (Ministry of Justice, 2009: Table 5.5), the proportion of divorces where at least one party has previously been divorced doubled between 1981 and 2007, to 20 per cent, and over half of all couples divorcing in that year had a child under the age of 16 (ONS, 2008c). Adults who are cohabiting, separated or with dependent children have been shown to be amongst those least likely to have made a will

(Brooker, 2007: p 4). Yet they and their children are the most likely to be adversely affected by the lack of one, and cohabitants particularly so given their exclusion under the current intestacy rules.

## Public attitudes toward inheritance and intestacy

Although some quantitative research (in particular Rowlingson and McKay, 2005; see also the review of the published data and literature by Hancock et al, 2002) has examined the broad issue of what people feel about inheritance in general (e.g. should people seek to pass on some of their wealth when they die, or spend it on a more comfortable retirement; do people themselves expect to receive or be in a position to bequeath in inheritance?), little is known about the views people may have on what the inheritance rules should provide. Finch et al (1996) conducted a study of 800 probated wills and carried out interviews with practitioners and members of the public to find out more about the influence of kinship on will-making behaviour and attitudes to inheritance. They found that the range of beneficiaries mentioned in wills was narrow, being largely confined to those related by blood. This focus on the nuclear family was also reflected in Rowlingson and McKay's findings. However, other research has not probed in depth how people prioritise potential claimants on their estate, for example, whether and how they distinguish between children from different relationships, and first and second (or subsequent) partners.

### 1.2 Aims and objectives

This study had two principal aims:

- To produce robust information for the Law Commission on public attitudes to how the law should handle inheritance matters, both when a will is made and when a person dies intestate.
- To discover how attitudes vary as between different groups (particularly those with children from more than one relationship, step-parents and cohabitants), regarding how they define their 'family' or the ties they view as relevant for the purposes of leaving their property after they die.

The key research questions it sought to address were as follows -

- On what basis do people consider that their property should be transmitted on death?
  - How far does the 'family' still take priority in determining people's views on who should inherit their property?
  - How far do ideas such as 'expectation' and 'obligation' underpin people's views on who should inherit their property?
- If 'family' is the key criterion, how do people define this for the purposes of inheritance?
  - How far do blood and marital ties hold sway?
  - How do people categorise other intimate relationships for these purposes?
- How do people prioritise beneficiaries?
  - Do their own children take priority over step children?
  - How are first and subsequent spouses/children prioritised?
- How far do people consider age and dependency to be a factor in inheritance decisions?
  - Are adult children less likely to be provided for than minor children?
  - How significant are life-time gifts in displacing expectations of inheritance?
- How far do people consider that fixed shares of an estate should be left to particular beneficiaries?
  - Does this depend upon whether the estate is being transmitted by will or intestacy?
  - What proportion of an estate might be regarded as appropriate for disposition by fixed shares?
  - To whom?

## 1.3 Methodology

This research incorporated a combination of quantitative and qualitative approaches. There are a number of reasons for designing a qualitative stage to follow-up the survey. First, quantitative research is able to answer questions about the prevalence of a particular view from a statistically representative sample, while qualitative research is able to address why people hold certain attitudes. Qualitative data collection techniques are also responsive and enable researchers to probe potentially contradicting attitudes and explore the link with actual behaviour. Finally, the complexity of the issues involved in how people prioritise different beneficiaries' claims and their obligations to them cannot be adequately elucidated and explored in a survey format alone.

### Quantitative phase

A module of questions was developed and run on the NatCen Omnibus Survey in 2009. The NatCen Omnibus is run at regular intervals and allows funders to buy their own questionnaire space. It is based on a stratified random probability sample design which is intended to deliver a nationally representative sample of adults in Great Britain. Addresses are selected from the Post Office Address File (PAF) and interviewers can interview *only* at these selected addresses, helping avoid the biases that can result from interviewers being given more freedom about where and when they interview. Interviews are conducted using Computer Assisted Interviewing (CAI).

The questions were designed by researchers at NatCen and Cardiff University. Respondents were asked about their background and family circumstances. The main element of the questionnaire involved presenting respondents with a series of differing scenarios where someone had died intestate. Respondents were asked to say how they felt the deceased's estate should be distributed, out of a selection of competing interests.

The questionnaire was run on two consecutive waves of the NatCen Omnibus. On the first wave, the questionnaire was asked of all respondents in England & Wales.<sup>2</sup>

Fieldwork for the first wave took place from Thursday 23<sup>rd</sup> July and ended on Sunday 20<sup>th</sup> September 2009. Interviews were conducted with 1,219 adults aged 16+ in England and Wales, representing a response rate of 49 per cent.

The questions were then run again on a second wave in order to boost the number of respondents in certain key groups of interest. The decision as to which sub-groups should be boosted was informed by analysis of data from the first wave. The following sub-groups were boosted:

- Cohabitants
- Those who had a partner who had children from a previous relationship
- Those who had parents who had re-partnered

Fieldwork for the second (boost) wave took place from 12<sup>th</sup> October until 28<sup>th</sup> November 2009. A total of 337 interviews were undertaken with adults aged 16 or more in the sub-groups identified above. The response rate for the Omnibus as a whole was 48 per cent.

The total number of respondents for the two waves combined was therefore 1,556. The data were weighted to correct for selection probabilities. The response rates achieved were slightly lower<sup>3</sup>

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<sup>2</sup> Scotland was excluded from the study because of the separate legal framework operating there. For consideration of the law in Scotland, see Scottish Law Commission (2007) and (2009).

<sup>3</sup> This was probably due to reasons associated with other question modules.



than are normally the case on the Omnibus and other random probability social surveys, but the data were also weighted to correct for non-response, in terms of age and sex within region. This ensured that the weighted sample was representative in terms of these three variables. Finally, the data from those groups boosted was weighted back down to its correct proportion in the population. All analysis detailed in this report is undertaken using weighted data.

Further information on the characteristics of the survey sample is provided in Appendix A. More information on the survey methodology, including the sample selection and weighting procedures can be found in Appendix B. A copy of the questionnaire can be found in Appendix C.

## Qualitative phase

Qualitative research enables a rich description of people's attitudes, behaviours and motivations and the data collection techniques allow researchers to use responsive questioning to elicit depth in participants' accounts. The qualitative phase of this study followed the quantitative phase, conducting depth interviews with 30 people who had taken part in the survey. This work complements the survey component of the study (which provides data on the prevalence of different views) by helping the research team to understand why people think as they do through identifying the range of factors that influence them.

A purposive sampling approach used in qualitative research selects individuals for inclusion based on a number of key criteria. The chosen criteria are relevant to the research questions in that they are likely to generate a sample which enables the study to capture the full range and diversity of views within the parent population. Following up a relevant survey provides researchers with a ready-made sample frame from which to draw a qualitative sample, particularly as the survey had collected data on key characteristics that could be used as sampling criteria. The most important dimension of diversity was participants' views on intestacy according to responses to key scenarios presented in the survey.<sup>4</sup> Six scenarios representing the core issues for the study, which proposed simple, fundamental choices for respondents, were identified. Responses to these scenarios were loosely categorised as conventional, unconventional or sharing. Using scenario 1 as an example, 'conventional' views were defined as those saying 'all to spouse or 'priority to spouse and unconventional as 'all to/ priority to the mother'. Between these two views were those saying 'shared equally'. Applying this principle across all of the selected scenarios and combining them to categorise participants leads to four key categories, defined in the following way:

- Mainly conventional – at least 4 'conventional' views
- Mainly sharing – at least 4 'shared equally' responses
- At least two 'unconventional'
- A mixture of 'conventional', 'unconventional' and 'shared equally' responses

The qualitative sample used the above categorisation as a primary sampling criterion. This was not used as a tool in the analysis of the data. On close analysis of the qualitative data, it was clear that there was no pattern of association that was worth exploring further between the category of views from the survey and views expressed during the depth interview. This could be because views change or alter during a depth interview, but also because this categorisation was not intended to present a typology of views from the survey; rather, its aim was to ensure a wide range of views in the qualitative data set.

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<sup>4</sup> For details of the scenarios, see Appendix D.



A second criterion was whether or not participants had children from multiple relationships. This was a key thread running through the scenarios and participants' own circumstances in relation to this were considered likely to be a crucial factor in influencing the range of views and experiences people have. Other characteristics of the participants were also considered as secondary sampling criteria and quotas were set for participants from each of the categories:

- Whether they had expected to receive something on the death of another and had not
- Age – 16-34, 35-64, 65+
- Marital status – Married, cohabiting, single, widowed, divorced, separated
- The value of their own estate – <£100,000, £100,000-£500,000, >£500,000

In addition to the primary and secondary criteria, there were also criteria across which we would have expected diversity to occur naturally and so did not set quotas but monitored the number included in the study. These were gender, whether individuals had made a will and whether they had received anything on the death of another. The achieved sample and further information on the rationale for the sampling approach and inclusion of criteria can be found in Appendix E.

To recruit the sample, letters and leaflets explaining the aims of the research were sent to 177 survey participants with a range of the above characteristics. Recipients were given two weeks to opt-out of the study; once this time had elapsed they were contacted by NatCen's Telephone Unit and if they wished to take part in the interview a time and location for the interview was arranged. This process continued until all quotas were met.

Depth interviews were conducted by experienced researchers using a topic guide to ensure the key issues were discussed. Where required, a series of vignettes were introduced, which provided participants with some practical scenarios and asked them to consider how changing certain elements of the scenario affected their views. All interviews but one were conducted in the participant's home, the other taking place in a local café, and participants were provided with £25 in cash as a recognition for their time. Interviews lasted between 40 and 90 minutes, were digitally recorded and transcribed verbatim. Copies of the topic guide and the vignettes can be found in Appendices F and G. The data were analysed using the Framework method, a data management technique developed by NatCen and now widely used in social policy research (Pope et al, 2006).

## 1.4 Format of report

The report provides findings from both the qualitative and quantitative phases of the research, drawing on each method where appropriate. It starts by providing underlying principles and approaches to intestacy identified through the qualitative research (Chapter 2). Chapter 3 then looks specifically at will-making. Chapters 4 to 6 focus on three different groups of potential beneficiaries in cases of intestacy; spouses and partners (in Chapter 4), descendants (in Chapter 5) and others (in Chapter 6). Chapter 7 explores how responses to the survey scenarios differ between some of the key sub-groups before some broad conclusions are drawn in Chapter 8.

## 1.5 Conventions used in report

The following conventions have been used in the tables.

- \* to indicate a percentage of less than 0.5%
- 0 to indicate a percentage of 0
- figure not shown because the unweighted sample size is too small

When making comparisons between different sub-groups (e.g. between those in different age groups or with differing marital status), only differences that are statistically significant to the 95% level are reported.

## 2 Underlying principles and approaches to inheritance and intestacy

### 2.1 Underlying principles

In this chapter, we discuss the range of factors identified by the qualitative element of the study which influenced attitudes towards the key questions raised in this research: who would people like to benefit from their estate and what do they believe should happen in cases of intestacy? These factors were based on a combination of fundamental personal values, moral and ethical beliefs and purely practical considerations. Although these factors were diverse, a set of broad underlying principles may be identified, which provides a comprehensive framework for understanding the views of the wide range of individuals in our sample. This section describes these principles and provides the context for the discussion of views on particular situations or groups of potential beneficiaries in subsequent chapters.

Participants' understanding of the various relationships of potential beneficiaries to the deceased appeared to frame all attitudes towards inheritance and intestacy and so is discussed first. A range of other, mediating non-relationship, factors is then discussed.

### Relationships and family circumstances

Attitudes towards entitlement in cases of inheritance and intestacy were largely framed by the **bilateral relationship** between the deceased and the potential beneficiary. Having considered the kinds of bilateral relationships they deemed relevant for inheritance, participants were then able to reflect on their attitudes towards prioritising the entitlement of these relationships in more complicated family scenarios.

Participants referred to formal kinship relationships, such as spouse, descendent and sibling, and also other relationships such as carer or companion. In some cases, identifying which of these relationships was considered 'next of kin' was an important starting point. A range of properties was drawn on to determine the nature of the relationship and the relative importance of these relationships more generally, as illustrated by Table 2.1. These properties were distinguished by whether they were objective facts or subjective judgements. They provide a richer understanding of the nature of the relationships considered important when respondents were discussing inheritance and intestacy. These properties were drawn on extensively to discuss the varying entitlements of specific groups, as outlined in subsequent chapters.

**Table 2.1 Properties of key bilateral relationships**

| Objective properties  | Subjective properties  |
|---|--|
| <ul style="list-style-type: none"><li>• Type in terms of kin, e.g. spouse, child, aunt</li><li>• Whether link biological, legal, emotional</li><li>• Length of relationship</li></ul> | <ul style="list-style-type: none"><li>• Evidence of commitment</li><li>• Evidence of dependency</li><li>• Contribution and reciprocity</li><li>• Emotional closeness</li></ul> |

Although the bilateral relationship was a clear starting point for understanding attitudes towards inheritance and intestacy, participants were often weighing up the relative entitlement of these

relationships concurrently. The complexity of surviving relationships that participants defined as **'family' or the 'family unit'** was a factor in determining the relative entitlement of potential beneficiaries. Definitions of family also influenced what it was felt could be expected of potential beneficiaries in terms of ensuring the wellbeing of other potential beneficiaries. For example, while one perspective emphasised the importance of the deceased's children inheriting, this could be either directly or indirectly: the survival of a partner or spouse might mean that children were not considered entitled to inherit directly but to be provided for by that spouse or partner. An alternative understanding of how concepts of family were linked to inheritance and lineage was articulated through clear assertions that certain relationships should always be considered and others never considered for inheritance. For example, some participants felt the right of a child to inherit from a parent was a principle fundamental to all cases, while others saw lineage as being of secondary importance; another view was that there are no circumstances in which parents should inherit.

## Non-relationship principles

A range of other principles or factors affected how people viewed the relative entitlement of potential beneficiaries, both as separate, competing claimants to the estate and as a single family-unit claimant. These can be categorised into four groups: responsibilities and expectations; definitions of fairness; practicalities; and personal autonomy.

Ensuring that people's **responsibilities** would continue to be met after their death influenced views of what should happen to their estate. The specific impact of this was dependent on the willingness of participants to make certain assumptions about how others would behave, so in that sense this also linked to their understandings of family. A crucial deliberation, particularly when discussing the relative entitlement of descendants and dependants, concerned who would be in the best position to continue to fulfil the responsibilities of the deceased and whether it could be assumed that anyone in particular would be willing or able to do this. An alternative perspective was that a different set of priorities takes hold in death: maintaining lineage was seen as more important than any responsibilities the deceased had while alive. **Expectations** were also a factor affecting attitudes in some situations. One element of this was the supposed preferences of the deceased and the extent to which the deceased's expectations should determine what happens, both where a will is made and in cases of intestacy. This influenced views on testamentary freedom as well as the extent to which intestacy law should attempt to incorporate 'what the deceased would have wanted'. A second element was what potential beneficiaries expected to happen. Their expectations were seen both as an important reason for making a will and also for having intestacy laws which make clear who should expect what in the event of a death.

Another consideration raised by participants was the **principle of fairness**. This was expressed in a range of ways, some of which were context-specific. Where fairness was understood as equality of treatment this translated into a desire for equal entitlement between those with the same relationship to the deceased (e.g. children) or between those with different relationships (e.g. a child and a spouse). In contrast, another concept of fairness was based on relative need, with the extent to which potential beneficiaries might need the money affecting their entitlement. A variation on this view was a focus on the extent to which potential beneficiaries 'deserved' to receive anything in a will or through intestacy law. Rather than the need of the individual, this view turned on the extent to which the potential beneficiary had contributed to the life of the deceased, for example through helping 'build' the estate or caring for them in old age. Finally, there was a view that where the size of an estate permitted, a 'fair' outcome would be to share the estate amongst a wider pool of beneficiaries.

A range of **practical considerations** inevitably emerged, particularly when discussing complex scenarios. Minimising the impacts of a death on the close family of the deceased was seen as desirable when making a will and as something that intestacy law should take into account. The ability to simplify inheritance and limit disagreement amongst the surviving family was seen as an advantage of making a will and something that intestacy rules should attempt to replicate where possible. Linked to this was a concern that small estates could be diminished by laws that required extensive arbitration in order to be enforced. There was little appetite for treating estates of different sizes by different rules. It was also clearly felt that intestacy laws should minimise the financial costs of settlement. Participants also noted that tax, or the avoidance of tax, was a factor in how they had designed their will. A further practical consideration was age, applied in a number of different settings, but predominantly in relation to the entitlement of descendants where there was concern over the ability of younger children to handle inheritances.

A final principle that appeared to inform attitudes was the freedom of the individual to choose what happens to their estate. The idea of **personal autonomy** was articulated particularly in relation to support for the principle of testamentary freedom. It also appeared to drive attitudes towards intestacy law in seeking to avoid a situation where any portion of an estate went to the state and also in minimising the state's involvement in decisions about what should happen in cases of intestacy.

## How underlying principles were drawn upon

The aim of setting out these broad principles is not to over-simplify the complex attitudes expressed towards the issues of inheritance and intestacy. In fact, we highlight throughout this report how participants in the qualitative study struggled to express a single coherent view on a range of issues, largely because a number of these principles are at work at any one time and often in conflicting ways. Participants responded differently to additional complicating circumstances raised by the interviewer or by themselves throughout the interview. One reaction was for participants to consider these circumstances as raising new possibilities and concerns that they had not previously considered and to revise their view on what they thought should happen in a particular case of intestacy. Another reaction was for participants to hold fast to their original view, suggesting that the principles upon which they had based that view were fundamental and impervious to circumstance. Finally, in between these two responses were participants who revised their view in light of new circumstances but ultimately returned to their original perspective. This 'full circle' was completed by either a consideration that it is impossible for intestacy law to cater for all circumstances so it should be based on clear principle or that for those who lose out as a result of intestacy laws the responsibility lies with the deceased for not having made a will.

It was also found that principles were drawn on differently when articulating views about inheritance under a will as compared to intestacy. Participants described a range of potential beneficiaries to include in their own will but it was clear that they did not necessarily feel that this ought to be the principle on which all intestacy cases should be determined. In the case of their own estate, people felt more able to make judgements about how certain beneficiaries would behave toward other beneficiaries; in terms of applying a general rule for cases of intestacy there was less confidence in the behaviour of certain beneficiaries and a consequent need to safeguard the entitlement or well-being of others, notably young children. For example, when discussing what should happen to their own estate, participants referred to both objective and subjective factors, giving equal weight to the subjective when discussing their situation, including grandchildren ahead of children for example. Conversely, attitudes towards intestacy had a more varied basis. One approach was to take account only of objective factors on the basis that without a will the law cannot speculate about subjective circumstances such as 'commitment' or relative need, which the deceased might have

regarded as significant. Alternatively, there was a view that in certain situations the law should take subjective factors into account. However, it was clear that people's own circumstances had more of a bearing on the allocation of assets in their own will than on their attitudes towards intestacy. This may provide some explanation as to why some of the sub-group analysis in Chapter 7 appears counterintuitive (for example, cohabiting respondents being less supportive of cohabitants than married respondents in response to certain scenarios).

How the use of these principles influenced views on the mechanisms that should determine what happens in cases of intestacy is described in section 2.3. The qualitative elements of the remaining substantive chapters of the report also draw on these principles to understand participants' views on the entitlement and prioritisation of different groups.

## 2.2 General views on inheritance and the importance of passing on wealth

Participants expressed a range of general views on inheritance with those stressing the importance of passing on wealth drawing heavily on the principles outlined in the previous section. The concepts of family and lineage were important in relation to passing wealth and heirlooms down a specific family line. Equally, the principle of continuing responsibility suggested that inheritance should enable a person to provide for their dependants in the event of their death. Participants also indicated that if someone works hard for their estate, they would want to influence what happened to it, echoing the principle of personal autonomy. Practical considerations also influenced attitudes towards passing on wealth, such as to help those in need and to enable children to use the money on specific items such as property or education. Further practical considerations involved the idea that by passing on wealth one would be putting it to good use and avoiding waste which was a view that featured in participants' reasons for writing their own will. A final reason for passing on wealth was as an expression of love to show you cared for someone, or to '*throw yourself in good light*' (Male, 64+, Widowed) so people think better of you.

Not all participants considered it important or fair for people to pass on wealth. Some participants indicated that the priority should be to enjoy wealth and to use it to help others while alive. This was also seen as a way to avoid inheritance tax, a subject to which participants referred throughout their discussions on inheritance. Further opposition to passing on wealth was based on concerns about the unfair advantages that large inheritances offer those who receive them. The concept of meritocracy was also seen as important, with participants indicating that large inheritances are not a '*fair re-apportion of wealth across society*' (Male, 35-64, Cohabiting). Significance was also placed on the idea that everyone should have an equal start in life so estates should go to charity, the government or back into the community.

## 2.3 Approaches to intestacy: mechanisms for distributing an estate

Participants were informed that they were not expected to know what the current rules of intestacy are, or how they operate.<sup>5</sup> They were invited instead to discuss what they thought the rules ought to be, and they drew upon the underlying principles described above to express a range of views on the mechanisms that should be available for the law to determine what should happen in cases of intestacy. How these mechanisms and laws should be applied in practice and affect the entitlement of potential respondents is the subject of later chapters where the findings from the qualitative study provide richness and detail to the prevalence of views captured by the quantitative

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<sup>5</sup> We have set these out briefly at the start of chapter 1 and in Appendix H. We provide brief explanations of the law to contextualise the findings where appropriate throughout this report.

data. This section describes what participants saw as the objectives of intestacy law and discusses the extent to which participants felt that a fixed set of rules should be used in cases of intestacy or whether a case-by-case approach should be taken, and how this might work in practice.

## Objectives of intestacy law

Participants' attitudes towards what intestacy law should be seeking to achieve linked to a combination of principles about *inheritance* in general and practical considerations about *intestacy* in particular. Participants identified four objectives of intestacy law. These objectives were not mutually exclusive and their interpretation could be contradictory when applied to complex scenarios.

- **Giving priority to certain individuals or types of relationship** – including priority for spouses or other partners to inherit, priority to provide for children or priority to other groups or individuals who could reasonably expect to inherit in particular circumstances, such as parents when there is no surviving spouse or children
- **Maintaining lineage through the bloodline** – reflecting a principle of inheritance as something that is 'passed down' to those with 'blood ties', with inheritance for children being seen as a 'birthright', that retains the estate within the family lineage
- **Maintaining family stability** –ensuring that a group of certain individuals is provided for and can remain together rather with the aim that the estate remains 'in the immediate family' or the 'family unit'
- **Minimising the change and the impact of death** –minimising the impact on the loved ones of the deceased by, where possible, removing uncertainty and maintaining the status quo in respect of the deceased's responsibilities and family ties

Running through all of the objectives was the sense that intestacy law should be striving for fairness, though this was defined in a variety of ways. Understandings of fairness that drew on ideas of morality or tradition were identified with lineage and the prioritising of certain individuals or groups. In more practical terms fairness was about ensuring that those closest to the deceased were considered equally, that none was made worse off by the loss of a loved one or that those in most need of the money should be given priority. How these objectives applied to particular scenarios is the focus of subsequent chapters.

## Meeting the objectives in practice

This section describes perspectives on how the proposed objectives of intestacy law could be achieved in practice. Two broad mechanisms were identified by participants as potentially able to meet these objectives: a set of ground rules and case-by-case arbitration. A **set of rules** was considered beneficial for a number of reasons. First, in cases of intestacy it was considered that set rules would make clear to potential beneficiaries what to expect, preventing disagreement and drawn-out arbitration procedures. Related to this was a concern about the costs of such arbitration, rules being seen as a way of avoiding the courts and minimising costs. Certain essential qualities for these rules were identified. Unambiguous rules written in plain English were seen as crucial. It was felt that only objective facts about people's relationships should be taken into account when drawing up the rules and not subjective judgements such as whether someone was 'deserving' or in need. Participants suggested that the rules should either work along a 'hierarchy' that would see all the estate going to the next relative or set of relatives in line or that it should be shared, equally or otherwise, among the 'immediate family' however defined. As Appendix H demonstrates, this is broadly how the current law on intestacy operates.



An alternative approach was for intestacy law to take account of different situations on a **case-by-case basis**. Participants suggested that it could be important to consider and, in some cases, examine specific circumstances and that where this generated disagreement, some form of counselling or mediation could be helpful in managing this. It was also noted that while a set of rules may be based on clear principles these may not be the principles familiar to the deceased or the deceased's family, so an ability to challenge a normative set of rules was deemed important. Equally, there was an understanding that in many circumstances defining fairness may require subjective judgements that a set of rules is not capable of making. As explained in Chapter 1, the Inheritance (Provision for Family and Dependants) Act 1975 provides an opportunity for certain categories of potential beneficiary to challenge the disposition of an estate under the intestacy rules.

In considering both approaches, there was a recognition that a set of rules could not cater for all circumstances. Approaches to using and combining these mechanisms were distinguished by the extent to which participants felt it was desirable or practical for intestacy law to address the specific circumstances of individual cases. Table 2.2 illustrates the five approaches adopted, and we then outline how these worked in practice.

**Table 2.2 Approaches to distributing estates in cases of intestacy**

|            |                |                        |
|------------|----------------|------------------------|
| Approach 1 | Fixed rules    | No challenges          |
| Approach 2 | Flexible rules | No challenges          |
| Approach 3 | Fixed rules    | Conditional challenges |
| Approach 4 | Flexible rules | Open challenges        |
| Approach 5 | No Rules       | N/A                    |

A fixed set of rules, uniformly applied in every case represents the **first approach** to intestacy. This perspective was based on two key points. First, there was a view that there should be 'an onus' on people to make a will and that if the deceased has not then it is '*just tough*' for potential beneficiaries who might lose out. The role of intestacy law was not seen as being to ensure people's welfare, since other state safety nets exist for this purpose. Individuals proposing a fixed set of rules had clear ideas on how the rules should be designed in a way they saw as fair or right, such as inheritance estates always being received by the spouse. However, a strong belief that people should make a will was neither a necessary nor sufficient condition for supporting a fixed set of rules. A second basis for not permitting any deviation from the rules was to minimise costs, disagreement and the wasting of court time. Participants across a range of the sampling criteria supported this approach, even though not all had made a will, which one might have expected given the lack of sympathy they displayed towards those losing out from a fixed set of rules. Participants in this group also acknowledged that their own wishes or wishes of close family might not be served by these rules were they to die without making a will.

The **second approach** proposed an inbuilt flexibility that allowed a set of rules to be applied differently according to the situation. This differed from the previous approach in that it was characterised by a greater willingness to cater for different situations and circumstances. In practice this was seen as comprising a set of rules with guidelines as to how they could be adjusted to circumstances or multiple sets of rules for different scenarios. Participants were not able to provide any further details on how this might work in practice, but it was considered that



greater flexibility would reduce 'animosity' between family members where the application of fixed rules might be considered unfair. However, as with the previous approach there was no appetite for allowing potential beneficiaries to challenge the application of the rules. Many of the reasons for this described in the previous paragraph were echoed here, although this approach was not characterised by as strong a belief in will-making. Rather, the emphasis was on limiting costs and a view that the inbuilt flexibility should account for the large majority of circumstances.

The next two approaches are distinguished from those discussed so far by proposing that potential beneficiaries should be able to challenge the application of the rules; however these two approaches differ from each other in terms of the flexibility of the rules and the extent to which they could be challenged. The **third approach** suggested that a fixed set of rules should be in place but that there should be certain conditions in which these rules could be challenged. One set of circumstances related to need, for example, where a specific care requirement of someone dependent on the deceased would not be met by the rules. This contrasts with participants in the first two approaches where challenges were not allowed. Additionally, it was felt that those with legal or blood ties to the deceased should be able to challenge what they felt was an unfair application of the rules. Another view suggested that if those benefiting from the rules had not been in contact with the deceased for a long time then others should be entitled to challenge the rules. Finally, a more vague concern was for people who had a '*reasonable expectation to inherit but did not*' being able to challenge.

The **fourth approach** suggested that any rules, either fixed or flexible, should be open to challenge in any circumstances. This reflected either less concern about the costs of challenges or an assumption that with flexible rules there would be fewer challenges. Participants noted that it should be up to the individuals as to whether they challenge, particularly if they are willing to meet the associated legal costs.

The **fifth approach** was distinct from all of the previous approaches in that no set of rules was considered appropriate for determining what should happen in cases of intestacy. Here participants felt that only a case-by-case approach was suitable, based on an assumption that all intestacy cases are different. Participants noted that this approach would enable the '*investigation of social circumstances of lots of different situations*', which implies that intestacy rules should try to account for the subjective aspects of the principles described earlier in this chapter. There was also a stronger sense here that it was important for intestacy law to minimise or mitigate potential disagreements between those with competing claims on the estate of the deceased. Consequently, it was also proposed that a professional, described both as an 'arbitrator' and a 'counsellor' could facilitate this process, while others felt it should be led by 'the immediate family' (the surviving spouse and children). This latter view, however, did not acknowledge that there are different interpretations of what constitutes the 'immediate family' that might require a case-by-case approach. Interestingly, participants supporting this approach appeared to draw more on their own personal circumstances: they each had experience of 'non-traditional families', for example, as a parent with a child from a previous relationship or as a step- or half-sibling, and some recognised this experience explicitly as driving their view. It is also worth noting that this kind of family experience could have influenced the views of participants in any of the above approaches.

## 2.4 Summary

- Participants' attitudes towards entitlement were largely framed by the bilateral relationship between the deceased and the potential beneficiary. Relationships were prioritised by means of objective criteria such as kinship or length of relationship and subjective criteria such as commitment or emotional closeness. Other principles affecting the ranking of

competing claims included responsibilities and expectations, fairness, practicalities, and personal autonomy.

- Participants in the qualitative study were often not consistent in their views. In addition, the principles which they applied to their own will-making differed from those which they applied to intestacy.
- Views on the importance of passing on wealth included handing things down the family line, fulfilling one's responsibilities to dependants, meeting practical needs, and exercising autonomy through controlling one's lifetime wealth. Those participants who did not consider it important to pass on wealth raised as reasons the avoidance of inheritance tax through lifetime gifts and a concern to put wealth back into the community rather than privilege descendants.
- Participants identified four objectives of intestacy law: to give priority to certain individuals or types of relations; to maintain property within the blood-line; to maintain family stability and to minimise the practical impact of the death on those left behind.
- Approaches to how the intestacy rules should work ranged from fixed rules which could not be open to challenge in any circumstances, through a system of rules with lesser or greater ability to challenge, to a purely case-by-case approach which would investigate the claims of each potential beneficiary.

## 3 Will making

This chapter discusses attitudes and behaviour related to will making and testamentary freedom. Findings from the quantitative survey are presented on whether people have made a will, on any individual characteristics that can be linked to will writing and on who is prioritised in wills. The qualitative element of the study offers further detail on these issues. Participants expressed a range of views that can be used to shed some light on the reasons why people do or do not make wills and what factors influence to whom people choose to leave their estate. The qualitative study also explored attitudes towards testamentary freedom, which are discussed in the final section of this chapter.

### 3.1 The presence of a will

Overall, just over a third (37 per cent) of respondents said that they had a will (a formal will that had been signed and witnessed) (Table 3.1). This reflects previous research where the proportion with a will was measured at 36 per cent (Brooker: 2007: p 3) and 45 per cent (Rowlingson and McKay: 2005: p 85 ). However, as one would expect, this varied significantly by age. In the youngest age groups, only a very small minority claimed to have a will; six per cent of those aged 16 to 24 and eight per cent of those aged 25 to 34. The proportion increased steadily with age such that most (82 per cent) of those aged 75 or more had a will.

**Table 3.1 Whether respondent has a will**

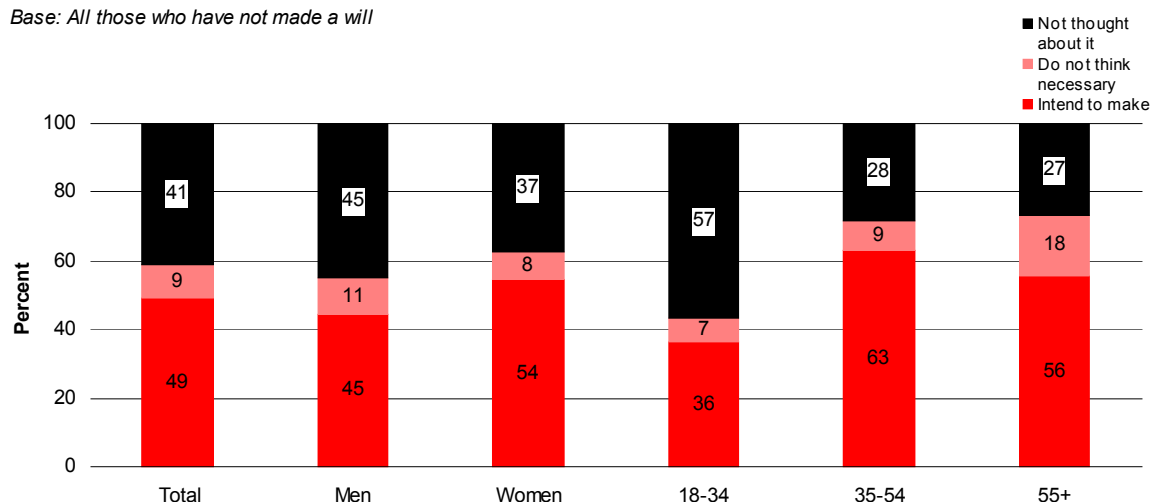
| <i>Base: All adults aged 16+ in England &amp; Wales</i> |                   |          |          |          |          |          |     | NatCen<br>Omnibus<br>Survey |
|---|-------------------|----------|----------|----------|----------|----------|-----|-----------------------------|
|   | Age of respondent |          |          |          |          |          |     |                             |
|   | 16 to 24          | 25 to 34 | 35 to 44 | 45 to 54 | 55 to 64 | 65 to 74 | 75+ | Total                       |
|   | %                 | %        | %        | %        | %        | %        | %   | %                           |
| Yes   | 6                 | 8        | 27       | 41       | 60       | 73       | 82  | 37                          |
| No  | 94                | 92       | 73       | 59       | 40       | 27       | 18  | 63                          |
| Bases   | 134               | 260      | 293      | 251      | 251      | 213      | 151 | 1,553                       |

Widowed and married respondents were more likely to have made wills (78 per cent and 48 per cent respectively) whereas cohabiting and single respondents were least likely (20 per cent and 13 per cent). The prevalence of will-making also varied greatly by the value of respondents' assets, from just nine per cent of those with assets worth up to £10,000 to 80 per cent of those with assets valued at more than £500,000. Those who had themselves received something on another's death were much more likely to have made a will (55 per cent) than those who had not (26 per cent). Multivariate analysis confirms that marital status, financial worth and age were all independently related to making a will.

Respondents who had not made a will were asked to say which of three statements about making a will best described their feelings. As is shown in Fig. 3.1., overall, around a half (49 per cent) said that they did intend to make a will, nine per cent did not think it was necessary and 41 per cent said that they had not really thought about it. Men were slightly less likely than women to say that they intended to make a will (45 per cent compared with 54 per cent). Younger respondents were less likely to have thought about it (57 per cent).

**Figure 3.1 Feelings about making a will**

Base: All those who have not made a will



An intention to make a will was also higher among married respondents. Those with fewer assets were more likely to say they had not thought about it (56 per cent) and the proportion who said that they did intend to make a will increased from 28 per cent of those with assets of less than £10,000 to around four fifths of those with assets above £200,000. Nearly two-thirds (63 per cent) of single people said that they had not really thought about making a will. This may in part reflect their lower age profile (multivariate analysis confirms age to be independently related to feelings about making a will).

## Factors affecting the presence of a will

This section discusses factors which emerged from the qualitative study as affecting will making, including specific catalysts for writing a will, as well as why participants are yet to write one. It includes views on the importance of making a will and prompts characterised by a change in personal circumstances. These findings provide a context for the links identified by the quantitative study between marital status, age and the value of assets, and making a will, but also highlight reasons why such associations do not hold in some circumstances.

**Family circumstance** is a key factor affecting will making, with marriage and children acting both as prompts and pre-conditions to will-writing. Where a respondent married or had children this change had been a catalyst to writing a will. For others, particularly younger respondents, the lack of such a 'created family' was used to support their reasoning for not having one: '*If I had, like, a family I would probably have, like, a will, but I haven't got a family at the moment*' (Male, 16-34, Single). Having children or becoming a grandparent, changes in marital status or a death in the family were identified as reasons why respondents had amended their will, in order to reflect their changing family structure. Participants also described changing their will to make clear new intentions such as changing the priority or distribution of what existing beneficiaries would be bequeathed or dictating what could be done with what is bequeathed to them. A death in the family was also indicated as an initial prompt to writing a will, particularly where it had served to emphasise the complicated nature of intestacy law.

An **assessment of the risk of death** also appeared to play a part in whether a will had been made and could be the overriding factor in the absence of the prompts from family circumstances. For example, some unmarried participants who had made a will did so following a potentially life threatening illness. The need to make a will was also linked with increased risks connected to work,

specifically being in the armed forces and going abroad for extended periods of time. Conversely, an absence of risk was identified as a reason for not having made a will. Younger participants indicated they would make a will when their life took on more risks such as when they started to drive. A superstitious view was also described, suggesting that the process of making a will would hasten death and this was a reason not to make a will.

As in the quantitative study, the **value of assets and personal wealth** was identified as an important factor that had influenced participants' decisions about whether or not to make a will. For example, the process of buying a property was highlighted by participants as a direct prompt for will making, or as a reason that would prompt respondents to make one in the future:

*'When we made the first one...we were buying a house and we thought well...they advise you when you're doing that kind of thing to make a will because it's a big purchase and it's a lot of money and you want to make sure it's all taken care of.'*

(Female, 35-64, Married)

Conversely, there was a sense that until participants had something significant to leave in a will, either savings or property, they did not see the need to have one. Where participants with smaller estates had made a will, personal experience of a death in the family and/or intestacy appears to have been an overriding factor, regardless of what they had to give. The cost of solicitor's fees was raised as a barrier to will making, but participants also distrusted cheaper do-it-yourself wills, fearing that they might not be legally effective. Alternatively, it was indicated that a prompt for making a will had been an offer from a charitable organisation to cover the legal costs involved in making a will on the assumption that a portion of the estate would be left to the charity.

More general factors influencing the decision to make a will related to the expression of **personal autonomy**. The strictest application of this principle suggested that having a will is the only way a person can expect to exercise influence over what happens to their estate: *'It's inconceivable to my mind that which I accrued during my lifetime I cannot dispose of according to my wishes'* (Male, 64+, Widowed). For cohabitants, this meant overcoming the intestacy laws which currently exclude them and for others, having an enforceable voice regarding their preference of a guardian for their children. Wills were also seen as an important way to limit the amount of money the government could take via inheritance tax. In some cases a will was not only a means of stipulating who should inherit what but also of dictating how beneficiaries could use what they inherited, particularly in relation to the family home. Importantly, wills were also seen as personal expressions of love and gratitude and as a way to be remembered.

A range of **practical considerations** also influenced will making. Ensuring clarity and efficiency through a will, including naming a neutral and objective executor was seen as important for potential beneficiaries rather than leaving the burden of trying to sort out who should inherit from the estate.

*'...sometimes you get a lot of people pulling on you wanting this and wanting that. If you've got somebody objectively to say this is my advice, you don't have to take it but this is what I'm advising, it does help I think.'*

(Female, 64+, Married)

This concern could be prompted by hearing the experiences of others in the community in relation to inheritance matters. Conversely, negative experiences could also lead to an assumption that the process of making a will would be complicated. Where a difficult decision such as the guardianship

of children had to be made, participants admitted putting off making a will or assuming that the state would handle the estate in a way that provided for children. Despite recognising the importance of having a will, some participants simply described themselves as having been 'lazy' and /or not having had the time to make one. The survey findings noted an association between age and will-making and the qualitative study provides possible explanations for this. A number of the reasons for making a will described by participants, such as having a family, owning assets or being more aware of the risk of death, are more characteristic of older people. Equally, younger participants explained their lack of interest in terms of the absence of these circumstances.

### 3.2 Allocation of assets in the will

In the quantitative survey, those who had made a will were asked whom they had included in that will and those without one were also asked whom they would include. The results from both questions are shown in Table 3.2. Around three-quarters of those who had made a will had included their children and 65 per cent had included their spouse or partner. Much smaller proportions had included other relatives, including brothers and sisters (13 per cent) and grandchildren (12 per cent). Seven per cent had included an organisation such as a charity. There were some interesting differences between men and women with women more likely to include their children (77 per cent compared with 68 per cent of men) and men more likely to include their spouse or partner (75 per cent versus 57 per cent among women). This is likely to be due in part to the differing marital status profile of men and women with a much higher profile of women being widowed (and therefore likely to allocate their estate to their children).<sup>6</sup>

As would be expected, most married respondents included their spouses. Those with higher levels of assets were more likely to include a spouse or partner, which may reflect the fact that those who were married tended to be better off.

Those without children of their own were more likely to include other relations such as siblings (36 per cent), nieces or nephews (22 per cent), parents (18 per cent), an organisation such as a charity (16 per cent) and their friends (14 per cent).

It is important to highlight that these findings relate to how respondents had allocated assets in their *current* wills and that for some (especially the younger respondents) these were not necessarily going to be their *final* wills. It is likely that a proportion of the respondents would change their wills before they died, often in response to changed circumstances such as retirement or the death of a spouse or partner (see Masson et al, 1996: 57-60).

Responses among those who had not made a will followed a broadly similar pattern, with spouses/partners and children being the most often mentioned. However, higher proportions mentioned siblings (28 per cent) and parents (18 per cent). This possibly reflects the younger profile of those who had not made a will. Indeed, the proportions mentioning parents or siblings were much higher among younger respondents whereas older respondents were more likely to mention spouses or partners, children or grandchildren. Again, women were more likely than men to say they would include their children.

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<sup>6</sup> See for example, Haskey (2010 forthcoming)

**Table 3.2 Who included in will by sex**

| Base: All respondents with/without a will              |                      |       |       |                           |       | NatCen<br>Omnibus<br>Survey |
|--|----------------------|-------|-------|---------------------------|-------|-----------------------------|
|  | Who included in will |       |       | Who would include in will |       |                             |
|  | Men                  | Women | Total | Men                       | Women | Total                       |
|  | %                    | %     | %     | %                         | %     | %                           |
| Your own child/children                                | 68                   | 77    | 73    | 45                        | 64    | 54                          |
| Spouse/civil partner or partner                        | 75                   | 57    | 65    | 57                        | 52    | 54                          |
| Brothers/sisters                                       | 13                   | 12    | 13    | 32                        | 24    | 28                          |
| Grandchild/grandchildren                               | 9                    | 14    | 12    | 4                         | 9     | 7                           |
| Nieces or nephews                                      | 6                    | 8     | 7     | 0                         | 0     | 0                           |
| Organisation e.g. charity                              | 9                    | 5     | 7     | 4                         | 4     | 4                           |
| Parents  | 5                    | 6     | 6     | 21                        | 15    | 18                          |
| Friends  | 5                    | 6     | 5     | 5                         | 5     | 5                           |
| Your step-children from a previous relationship        | 3                    | 3     | 3     | 0                         | 0     | 0                           |
| Former spouse/civil partner or partner                 | 2                    | 1     | 2     | 1                         | 1     | 1                           |
| Your spouse s/partner s/civil partner s child/children | 2                    | 3     | 2     | 6                         | 3     | 5                           |
| Cousin(s)  | 2                    | 2     | 2     | 0                         | 0     | 0                           |
| Great-grandchildren                                    | 0                    | 1     | *     | 0                         | 0     | 0                           |
| God child/god children                                 | 0                    | 1     | *     | 0                         | 0     | 0                           |
| Other relatives  | 1                    | 1     | 1     | 4                         | 5     | 4                           |
| Other  | *                    | 1     | *     | 1                         | 1     | 1                           |
| Bases  | 279                  | 343   | 622   | 413                       | 498   | 911                         |

The ways in which respondents had (or would) allocate their assets are shown in Table 3.3. Around half (53 per cent) had specified that their estate should go to their spouse or partner in full, otherwise, if the spouse/ partner predeceased them, to their children. Among those who were married, this was higher at around three-quarters. Just under a quarter (23 per cent) said that the whole of their estate should go to their children. Among those who were widowed, this was much higher at 81 per cent. Men were slightly more likely to prioritise their spouse/partner (60 per cent compared with 47 per cent of women) and less likely to favour their children (15 per cent versus 29 per cent). Multivariate analysis confirms that again this reflects the differing marital status profiles of men and women.

Those who had not made a will were less likely to favour their spouses/partners (37 per cent) than those who had made a will (53 per cent). However, they were more likely to favour the sharing options and also parents and other relatives. Again, this may reflect the younger age profile of those who had not made a will. A small proportion said they had or would allocate their assets in other ways. These reflected a wide range of different combinations of relatives.



**Table 3.3 Allocation of assets by sex**

| Base: All respondents with/without a will                                  |                      |       |       |                           |       | NatCen<br>Omnibus<br>Survey |
|--|----------------------|-------|-------|---------------------------|-------|-----------------------------|
|  | How allocated assets |       |       | How would allocate assets |       |                             |
|  | Men                  | Women | Total | Men                       | Women | Total                       |
|  | %                    | %     | %     | %                         | %     | %                           |
| All to spouse/civil partner/partner if survives me, otherwise to children  | 60                   | 47    | 53    | 42                        | 33    | 37                          |
| All to children  | 15                   | 29    | 23    | 12                        | 28    | 20                          |
| Shared between spouse/civil partner/partner and children                   | 9                    | 7     | 8     | 11                        | 15    | 13                          |
| Other  | 7                    | 5     | 6     | 9                         | 5     | 7                           |
| Shared between other relatives   | 5                    | 5     | 5     | 12                        | 7     | 10                          |
| No property to allocate/ do not own property                               | 2                    | 4     | 3     | 4                         | 6     | 5                           |
| All to spouse/civil partner/partner, with no formal provision for children | 2                    | 2     | 2     | 3                         | 1     | 2                           |
| Shared between spouse/civil partner/partner and others                     | 3                    | 2     | 2     | 5                         | 4     | 5                           |
| Parents/mother/father  | 0                    | 0     | 0     | 10                        | 8     | 9                           |
| Bases  | 274                  | 333   | 607   | 406                       | 489   | 895                         |

The qualitative interviews uncovered a range of principles underpinning the participants' preferences for who should benefit from their estate. As with the quantitative findings those who had made a will focused on the 'created' family unit based on spouses and children while those who had not, characterised by younger respondents or those with no 'created' family of their own, prioritised family members such as siblings and parents. Also of interest is the distinction between fairness and autonomy with participants indicating that wills are about subjective judgements and choices and not necessarily about being objectively fair. These findings provide an insight into the basis for including the following groups in a will: spouses, descendants, other individuals and charities

There was a general sense among married or cohabiting participants that **prioritising their spouse or partner** in their will was the 'natural thing' to do. However, factors influencing this assumption were the nature of the relationship and the responsibility the deceased felt towards the surviving spouse or partner. In respect of the nature of the relationship, participants described including a spouse or partner on the basis of a close relationship and the decision they had both made to spend the rest of their lives together. Including a spouse was also about making a distinction between them and the rest of the family to make clear the intention that they wanted to provide for this person in the event of their death. The desire for the surviving spouse to be able to continue living in the lifestyle to which they were accustomed, or to be able to provide for children, was also strong. Where respondents with children had made spouses their main beneficiaries, it was usually assumed that eventually the estate would pass to children. This approach reflected a preference to keep the estate whole in order to keep matters simple, trusting the spouse to use the estate wisely and fairly. An exception to this gave priority to the spouse but with a portion put aside for children in a trust fund to safeguard the money from being used for general day-to-day bills 'if things got tight' (Male, 16-34, Cohabiting). In those cases, the age of children also appeared to be influential: where children were under 16 it was indicated that the estate would pass to the spouse



on the assumption they would share it with, or use it to support, their children; participants with adult children passed part of the estate directly to them or their grandchildren.

**Descendants were prioritised** by participants who were single, divorced, separated or widowed. However, some married participants also gave priority to their children, stressing the importance of lineage for inheritance. Where multiple children were indicated as beneficiaries it was considered that the fair approach would be to divide the estate equally regardless of their personal circumstances, not only to limit arguments but also because participants said they loved their children equally. The exception to this was where the children were of varying ages: older children were given priority to help care for their younger siblings.

Other underlying principles that influenced the decision to pass an estate straight to children included the blood-tie, continuing responsibilities and the nature of the relationship. The concept of lineage was used to support both the prioritisation of children in a will as well as leaving them out. The idea that there was a bond between them based on blood, *'she's mine at the end of the day'* (Female, 35-64, Single), was an important factor that influenced participants' decisions to prioritise children. Where the distinction between blood related and non-blood related family such as step-children was made, the preference was for blood-related family members to inherit. Concerns over maintaining family lineage where participants had children who were divorced were highlighted as a reason to include grandchildren in their own right:

*'...my eldest son's third share is split already into two...he and his adult son get one share between them...[it] cuts out any possibility...of his third wife getting my money and giving it to her daughters. In other words it's bloodline.'*

(Male, 64+, Widowed)

The bloodline, however, was not always the overriding factor. It was also clear that where children were dependent on the deceased, there was a desire to continue to fulfil this responsibility through inheritance. Finally, passing the estate to children was seen as a tradition. In particular, the family home could be seen as being passed down through the family for generations and participants expressed a desire to continue such traditions. Tradition also influenced how assets were distributed, in particular family heirlooms, and consequently a distinction was drawn between money and personal belongings:

*'I think...belongings, the house, any kind of heirlooms, that side of thing, should stay in the family...the money side is a separate issue and perhaps sort of divvied up on need basis.'*

(Male, 35-64, Cohabiting)

Participants emphasising **other beneficiaries** were largely those who had not made a will and this section is, therefore, largely based on ideas about who they *would* include in their will should they make one. Unsurprisingly, this group was characterised by being younger and without any 'created' family. The beneficiaries identified were therefore parents, siblings and friends who had children. Parents and siblings were considered when they were the closest people to participants and therefore the nature of relationship was a crucial factor. Here the term 'close' was used both in the biological sense of being close relatives, but also in a more sentimental way, highlighting the emotionally close bond they had with them; this also explained the inclusion of friends and their children. Importantly, there was also a distinction made between giving friends money and giving friends personal belongings that they would remember them by. Making parents the sole or primary beneficiaries of a will was supported by a desire to reciprocate what they had given the participant

emotionally and financially throughout life. Parents were also prioritised over siblings where participants believed their siblings could expect to inherit via their parents in time.

There was also some support for leaving a portion of an estate to **charity**. This was based on the desire to help others who are in need or the desire to contribute in a way that “means something” to them personally. A stark approach was to pass the entire estate to a charity regardless of surviving family based on the personal view that inheritance provides unfair advantages and threatens equality of opportunity. These views were, however, conditional on other potential beneficiaries being financially secure and on the size of the estate itself.

### 3.3 Attitudes towards testamentary freedom

The qualitative study also explored attitudes towards testamentary freedom and the right to challenge a will. Under the current law, a person may leave the whole of the estate as he or she wishes, but legislation enables certain people to challenge this. A spouse or civil partner, former spouse/civil partner, cohabitant of at least two years’ duration, child of the deceased, person treated by the deceased as a child of their family, and any other person who was being maintained by the deceased before their death, may apply to a court on the basis that ‘reasonable financial provision’ has not been made for them under the will. If their claim is upheld, the court will consider what, if any, provision should be made for them.<sup>7</sup> Participants, however, were not informed of this and may not have been aware of it. Vignettes were employed during interviews to enable participants to think about both the right of the deceased to testamentary freedom and the rights of a wide range of potential beneficiaries to challenge a will in different circumstances. The attitudes identified can be categorised into three broad groups: those who favoured complete testamentary freedom; those who suggested a combination of testamentary freedom and the ability to challenge in some circumstances; and those who favoured the ability to challenge in all cases. These views often changed throughout the interview in response to different situations. The table below reflects these changing views within the three main categories.

**Table 3.4 Attitudes towards testamentary freedom**

|                                 | Complete Testamentary Freedom                                   |  | Ability to challenge in some cases   |  | Ability to challenge in all cases                                   |
|---------------------------------|---|--|--|--|---|
| <b>How the view was reached</b> | Right to testamentary freedom upheld throughout the interviews. | Introduction of vignette led to questioning of testamentary freedom. Ultimately free-will given primacy and support for testamentary freedom upheld. | Introduction of vignette led to questioning of the idea of complete testamentary freedom. Ultimately challenging a will allowed under certain circumstances. | Challenging a will under certain circumstances recognised throughout interviews. | The right to challenge a will was upheld throughout the interviews. |

### Complete testamentary freedom

The overriding factor underpinning support for complete testamentary freedom was individual free will, which meant respecting the deceased’s wishes. It was argued that people should be able to dispose of their estate as they see fit and others should not be allowed to override that. For these

<sup>7</sup> The same rules apply on an intestacy.

participants free will was more important than relative need or the responsibility to provide for your family. It was also considered more important than other understandings of fairness. For example, where a spouse would be rendered homeless by the operation of a will, this was recognised as being unfair, but did not change the right of the deceased to have complete testamentary freedom: *'Pretty black and white, yes. It's my wishes, that's much more important than anything else.'* (Male, 64+, Widowed). The idea of ownership was another argument for complete testamentary freedom: if you own it you can do as you please with it in your will. It is worth highlighting that some participants struggled with the idea that ownership should override fairness or what appeared morally reasonable and yet they ultimately considered the concept of free-will more important.

## Testamentary freedom with circumstantial ability to challenge

One group of participants took an initial viewpoint that testamentary freedom was paramount, but fluctuated in this view when they were asked to consider the vignettes (see Appendix G). Ultimately, for these respondents, when a will was perceived to be unfair in its aims, it was thought to be challengeable. It was also felt that when a will caused hurt or harm then it should be challengeable. What is outlined here is a discussion of respondents' views on those conditions ultimately regarded as a pre-requisite for challenging a will.

Entitlement to challenge a will based on lineage, and more specifically the blood ties that potential beneficiaries might have with the deceased was a theme highlighted by participants and was particularly evident when discussing the entitlement of children. It was suggested that those with a blood link could have a reasonable expectation to inherit and therefore have grounds to challenge a will excluding them. Another perspective emphasised the right of spouses to challenge a will based on the emotional and legal link of being married. It was suggested, however, that the length of the marriage might influence the surviving spouse's rights to challenge: one argument was that where the marriage had lasted under five years there should be no right to challenge. An additional argument suggested that spouses and cohabitants should be able to challenge a will on the assumption that they would have made a monetary contribution to the estate throughout the duration of the relationship and therefore it was unfair to exclude them.

The need of potential beneficiaries was also regarded as an important factor influencing the ability to challenge a will; equally, another view suggested that where potential beneficiaries were not in need of support and therefore could live independently their right to challenge based on other principles was diminished. Opposition to using need as a determining factor in deciding entitlement to challenge was found in the views that family lineage and relationships were more important than need, and more generally that in the interest of fairness, need should not affect a person's ability to challenge a will at all.

There were contrasting views regarding whether the fact that the potential beneficiary had provided care for the deceased should be a basis for challenging a will. One view was that when a child had provided care for the deceased, they had a greater right to challenge and greater entitlement than other siblings who had not provided care:

*'...the child that cared for her, like, has more of a right because they actually did something for her whereas the other child might not have done as much.'*

(Female, 16-34, Single)

An alternative perspective suggested that equality should prevail amongst children and all should have equal entitlement to challenge a will based on their blood- ties and regardless of individual care provided. It was also suggested that if an ongoing link or relationship could be demonstrated,

such as contact at birthdays and Christmas, then the descendant deserved to inherit and therefore could challenge. The reverse was also true:

*'...if the person who died hadn't been in contact with their family for years and had removed themselves from them then I don't think they should have a claim back on it [the estate].'*

(Female, 16-34, Married)

As already indicated there was concern regarding the possibility that a will might make someone homeless or worse off. If this was the case it was felt that a spouse should be able to challenge for the right to stay in the family home. This was also closely linked with the idea of fairness which was highlighted by respondents when discussing the principles behind writing their own will in section 3.2.

### Ability to challenge in all circumstances

A final perspective on testamentary freedom supported the right to challenge a will in all circumstances. The overriding influence here was the importance of retaining property within the family. This was also seen as a way to keep the family together, which was considered more important than any individual's right to testamentary freedom or any responsibility of the deceased to provide for other relatives.

Where the right to testamentary freedom was not considered to be absolute, a range of potential beneficiaries were considered to have the right to challenge. One perspective emphasised that children should always have the right to challenge, based largely on the responsibility of the deceased to look after them and concerns about maintaining lineage:

*'Well it all depends if they've got dependants or whether they're on their own...if people have got dependants... there should be a certain amount they leave to them...Because I think you should always look after your own, because...if we all looked after our own... some people wouldn't be as hard up as what they are really.'*

(Female, 16-34, Single)

Others emphasised the right of spouses to challenge a will based largely on the nature of the relationship and the likelihood that they would have contributed to the estate over time. A further view suggested including charities in wills and it was argued that in place of testamentary freedom there should be a list of beneficiaries, of which a charity should always be part. It was recognised that a percentage should go to any surviving family members, especially any who were dependent on the deceased or would be made homeless if not supported via the will, but that in addition to this, a percentage should always go to charity. It was also suggested that the government should be entitled to a percentage of every estate to help with costs of healthcare and education and other frontline services.

### 3.4 Summary

- Just over a third of survey respondents said that they had a will. The proportion increased steadily with age, from six per cent of those aged 16 to 24 to 82 per cent of those aged 75 or over. Widowed and married respondents were more likely to have made wills whilst cohabiting and single respondents were least likely to have done so. Prevalence of will-making varied by the value of respondents' assets, from nine per cent of those with assets worth up to £10,000 to 80 per cent of those with assets valued at more than £500,000. Respondents who had themselves received an inheritance were much more likely to have

made a will than those who had not. Marital status, financial worth and age were all independently related to making a will.

- Factors raised by the qualitative study participants as affecting their propensity to make a will included their family circumstances; assessment of their risk of death; the value of their assets; the wish to influence what would happen to their property; and practicalities such as ensuring clarity and efficiency.
- Almost three quarters of the survey respondents who had made a will had included their children and 65 per cent had included their spouse or partner. Much smaller proportions had included other relatives, such as siblings and grandchildren and only seven per cent had included an organisation such as a charity. Responses among those who had not made a will followed a broadly similar pattern, except that higher proportions mentioned siblings and parents, possibly reflecting their younger profile.
- Just over half of respondents had specified that their estate should go to their spouse or partner in full, otherwise to their children, with the proportion rising to three-quarters of respondents who were married. Twenty-three per cent said that the whole of their estate should go to their children, rising to 81 per cent of those who were widowed.
- Participants in the qualitative study regarded prioritising their spouse/partner in their will as the 'natural' thing to do based on their shared life, close relationship and other factors. Inclusion of children and other dependants reflected significance attached to lineage, tradition, the blood-tie, continuing responsibilities and the nature of the relationship. Where children were to inherit it was of equal share. Leaving property to others (parents, siblings and friends) was mentioned by those who had not made a will and largely reflected their lack of a 'created' family. Including a charity in a will depended in part on the size of the estate and financial security of close family.
- Participants' attitudes towards testamentary freedom fell into three broad groups: those favouring complete testamentary freedom, those who suggested a combination of testamentary freedom and the ability to challenge in certain circumstances, and those who favoured the ability to challenge in all circumstances. The first of these regarded the free will of the testator as absolute. Those in the other two groups raised as factors which might justify a challenge such as the blood tie, the marriage bond, need (especially the risk of becoming homeless) and contribution to the estate and to the deceased's care. The third group emphasised keeping property within the family and keeping a family together over the will of the testator.

## 4 Intestacy: Entitlement of spouses and partners

The aim of this chapter is to present the findings of this study concerning views on the entitlement of spouses and other partners in cases of intestacy. It includes a discussion of the results of a series of scenarios involving different family structures, which were presented as part of the quantitative questionnaire, that illustrate the strength of support for spouses and partners in different contexts. In general, respondents were offered answer options which invited them to make a choice between two sets of competing interests (e.g. a surviving spouse versus surviving children). It supplements this data with information from the qualitative interviews which sheds light on the underlying principles that might have influenced the views in the survey.

### 4.1 Spouses

The first three scenarios presented as part of the quantitative survey all involved the death of a spouse. The first scenario focused on whether the spouse or the parents of the deceased should benefit. The question was worded as follows:

*So, first of all, suppose that a married woman dies without making a will. She is survived by her husband and her mother, but no children. What do you think should happen to her property, which includes the house that she and her husband lived in?*

Responses are shown in Table 4.1. There was strong support for the surviving spouse. Nearly two-thirds (63 per cent) of respondents said that all the deceased's property should go to her husband. A further fifth (21 per cent) stated that it should be shared but with priority to her husband, meaning that the vast majority (83 per cent) of respondents would favour the husband over the parent, in line with the current intestacy rules.

A small minority (14 per cent) felt that the property should be shared equally between the spouse and the parent, while only a very small proportion felt that the parent should be prioritised.

**Table 4.1 Married woman survived by husband and mother**

| <i>Base: all adults aged 16+ in England &amp; Wales</i> | <i>NatCen Omnibus Survey</i> |
|---|------------------------------|
|   | Total                        |
|   | %                            |
| All to husband  | 63                           |
| Priority to husband                                     | 21                           |
| Shared equally  | 14                           |
| Priority to mother                                      | 1                            |
| All to mother   | 1                            |
| Other   | 1                            |
| <i>Base</i>   | 1,533                        |

The second scenario was designed to elicit whom people felt should be favoured out of a surviving spouse and children. The Law Commission (2009: para 1.17) has noted the criticism that was levelled at the recommendation made in its earlier report (Law Commission, 1989) that a surviving spouse should receive the entire estate in every case, because it was felt that this failed

adequately to take account of the needs of the deceased's children, particularly those from a former marriage or relationship. The survey looked first at spouses with adult children.

*Suppose that a married man dies. He has not left a will. He is survived by his **wife** and their **two children**, both over 18. What do you think should happen to his property, which includes the house that he and his wife lived in?*

Answer options were structured in the same way as for the first scenario. Again there was strong support for the spouse although it was not as strong as when a parent was the competing recipient. Around a half of respondents (51 per cent) said all should go to the wife and 29 per cent said it should be shared but with priority to the wife (Table 4.2). Thus, four-fifths (80 per cent) favoured the spouse over the children. Again, a small minority (16 per cent) favoured equal sharing with only a small proportion favouring the children. The slightly lower level of support for everything going to the surviving spouse is in line with the current rules which give the spouse a smaller statutory legacy when there are children than when there are none.

| Table 4.2 Married man survived by wife and two children over 18 |                              |
|---|------------------------------|
| <i>Base: all adults aged 16+ in England &amp; Wales</i>         | <i>NatCen Omnibus Survey</i> |
|   | Total                        |
|   | %                            |
| All to wife   | 51                           |
| Priority to wife  | 29                           |
| Shared equally  | 16                           |
| Priority to children over 18                                    | 3                            |
| All to children over 18   | 1                            |
| Other   | 1                            |
| <i>Base</i>   | <i>1,539</i>                 |

The third scenario was similar to the second but replaced grown-up children with young children, in order to test whether dependency influences attitudes to sharing the estate:

*Say the same man dies but this time he is survived by his **wife** and their two **young** children. Now what do you think should happen to his property?*

Results are shown in Table 4.3 and are similar for the previous scenario, suggesting that the ages of the children had little impact where the couple were married. In total, three-quarters of respondents (76 per cent) still favoured the spouse, either wholly or as part of a sharing arrangement. Just seven per cent felt that the young children should be favoured.



**Table 4.3 Married man survived by wife and two young children**

|   |                              |
|---|------------------------------|
| <i>Base: all adults aged 16+ in England &amp; Wales</i> | <i>NatCen Omnibus Survey</i> |
|   | Total                        |
|   | %                            |
| All to wife   | 50                           |
| Priority to wife  | 26                           |
| Shared equally  | 17                           |
| Priority to children over 18                            | 5                            |
| All to children over 18                                 | 2                            |
| Other   | *                            |
| <i>Base</i>   | <i>1,538</i>                 |

The qualitative study provides interesting depth to the prevalence of views demonstrated by these findings. Although a range of views was identified, there was strong support throughout the sample for some form of entitlement for spouses in all cases of intestacy. These views, however, varied along two dimensions: whether the right to inherit should be automatic or conditional and the principles upon which this view was based.

The strongest expression of support for the entitlement of spouses suggested that the spouse should **always have an automatic right to inherit**. This perspective included variations as to what spouses should be entitled to and the basis on which they should be entitled. One view held by several participants was that the spouse should be entitled to all of the estate regardless of the circumstances. Participants described the nature of the relationship as an important reason for this, with marriage indicating a choice by the couple to spend the rest of their lives together so that the estate of the deceased was as much the estate of the spouse.

*I mean they've chosen to share their lives and probably every aspect of their lives so why not that as well...it would be what they both earn and bring to the relationship, they'd be sharing to live their lives so it would make sense. (Con05)*

Closeness and happiness were also important considerations, with some participants suggesting that time together meant a married couple would have had a happy relationship, though other participants guarded against the assumption that time together equated with happiness. Alternatively, a focus was put on the contribution a spouse might have made in 'building' the estate of the deceased, either financially or through looking after the family while the deceased was working. A final view of the spousal relationship was the fact that it represented a legal tie to the deceased. Where this was seen as the overriding factor, then entitling the spouse to inherit the entire estate was seen as the default position for intestacy rules, although participants had different views as to the circumstances in which this could be challenged, as explained in Chapter 2. Participants who felt that this should not be challengeable considered the legal ties of marriage as paramount when determining a legal issue like intestacy – if people do not want their estate to go directly to their spouse then they should make a legally binding will to make this clear.

A variation in this view was that the spouse's automatic right to inherit should not be to the entire estate in every case. The quantitative findings showed a drop in support for the spouse receiving everything when there were children present. In the qualitative study, participants discussed the relative or complementary entitlement of a spouse and their children. In this case, participants noted that although the ties of the spouse to the deceased described above were important, they were not blood ties. The implication was that it was important to include others who were blood



relatives, which predominantly meant children, but parents were also mentioned. The impact on each other's entitlement of the existence of spouses and children is discussed in greater detail in Chapter 5, but it is important to note here a key distinction made between the family home and other elements of the estate. Even where it was felt that spouses should not have an automatic right to inherit the entire estate, there was support for them being able to continue living in the family home, either by inheriting it or an agreement to occupy it until no longer required.

A second perspective proposed that spouses should have an **automatic right to inherit subject to meeting certain conditions**. The presence of children was one of these conditions and generated a complex set of attitudes. Where blood ties and lineage were considered as important and potentially threatened by a spouse inheriting, there was a view that any automatic right to inherit by the spouse was entirely conditional upon their having had children with the deceased who needed looking after. This view did not emphasise the entitlement of the spouse to inherit in their own right, but their role in providing for young children.

*'they shouldn't really have any right [the spouse]...[but] because the children are not yet able to fend for themselves, you know, make decisions and fend for themselves so in that circumstance it can go to the mother, yes.'*

(Female, 16-34, Single)

Conversely, it was suggested that the spouse should only be automatically entitled where there were no children or only very young children. Both these perspectives considered the role of the spouse as being to maintain the lineage of the deceased by ultimately passing on the estate to the children or to continue to fulfil the responsibilities of the deceased by providing for the children; they did not consider the nature of the spouse's relationship to the deceased *per se*. Related to this were other responsibilities the deceased might have, such as to care for a sick parent or a sibling with a disability. In these cases, the entitlement of the spouse was considered to be reduced. Another condition on which the automatic entitlement of the spouse might be based concerned the length of the spouse's relationship to the deceased. Some participants felt that shorter marriages should mean that the spouse is entitled to less of the estate or that other beneficiaries should be considered alongside the spouse. In part, this related to the contribution the spouse had made to the estate, an issue particularly pertinent when discussing second spouses, as described in section 4.5.

The final perspective on the entitlement of spouses suggested that they should have no automatic right to inherit, but that their **entitlement should only be based on their ability to challenge** the intestacy rules. This view was characterised by support for particular underlying principles that did not privilege potential beneficiaries based on the nature of their relationship to the deceased. For example, it was considered that intestacy rules should be applied flexibly in order to provide for those in the greatest need. It was suggested that the spouse would then be able to challenge the application of these rules if their needs had not been met by them. It was acknowledged, however, that where children were considered to have the greatest need this might still see the spouse receiving a large amount of the estate as the person best placed to meet this need. In fact, when asked to consider the impacts of this approach on the spouse, participants felt that the spouse should always retain the right at least to occupy the family home.

## 4.2 Civil Partners

Although they are treated equally in law to spouses, this study also set out to examine attitudes towards the entitlement of civil partners. The quantitative study included a scenario that introduced

the concept of civil partnerships. The scenario was the same as in the first scenario involving spouses described in section 4.1 except that it involved a civil partner rather than a husband:

*Suppose that a woman who was in a civil partnership dies without making a will. Civil partners are same-sex couples who have legally registered their partnership. She is survived by her civil partner and her mother, but no children. What do you think should happen to her property, which includes the house that she and her civil partner lived in?*

Although the civil partner was strongly favoured with 65 per cent opting for all or priority to the civil partner (Table 4.4), this was not as strong as it was for the married spouse in the first scenario (83 per cent). This may be partly accounted for by a lower level of familiarity amongst the public with the status of civil partner. It may also reflect weaker public approval of civil partnerships compared with marriage. Findings from the British Social Attitudes Survey show that around a quarter (27 per cent) of people disagree that 'Civil Partners should have the same legal rights as married couples' (Park et al, 2008: 53). Furthermore, a similar proportion (26 per cent) actively disapproves of laws that treat civil partners the same as married couples.

**Table 4.4 Woman survived by civil partner and mother**

| <i>Base: all adults aged 16+ in England &amp; Wales</i> | <i>NatCen Omnibus Survey</i> |
|---|------------------------------|
|   | Total                        |
|   | %                            |
| All to civil partner                                    | 44                           |
| Priority to civil partner                               | 21                           |
| Shared equally  | 23                           |
| Priority to mother                                      | 5                            |
| All to mother   | 6                            |
| Other   | 1                            |
| <i>Base</i>   | <i>1,508</i>                 |

During the qualitative interviews civil partnerships and their standing in law were explained to participants in more detail and the findings can provide possible explanations for the survey results. Where participants considered civil partners as equal to spouses, attitudes towards their entitlement in cases of intestacy reflected the range of views discussed in section 4.1 in relation to spouses. For example, participants noted the importance of the legal ties and commitment that had been made in becoming civil partners. Conversely, some participants' views on the entitlement of civil partners differed from their views on spouses. One manifestation of this was the view that civil partners' entitlement to inherit should be entirely based upon the length of their relationship, with entitlement only being automatic for relationships lasting over 15 years. It was unclear whether such respondents felt that surviving civil partners in shorter relationships should be able to challenge intestacy rules. There was also a more severe view suggesting that civil partners should have no entitlement in cases of intestacy. This perspective was based partly on the idea that marriage shows a greater commitment but also reflected strongly held opinions and discomfort with same sex relationships.

### 4.3 Cohabitants

A series of scenarios involving cohabitants, rather than married couples or civil partners, was also presented to respondents. Cohabitants are currently excluded under the intestacy rules. The Law Commission has provisionally proposed changing the law so that cohabitants should be able to inherit on an intestacy where the cohabiting couple has either had a child together, or has lived

together for a minimum of two years (Law Commission 2009, paras 4.66 – 4.85). The survey investigated the extent of support for cohabitants both with and without children and with varying lengths of cohabitation.

Five scenarios were included. The first asked about a couple with a long cohabitation and with grown-up children:

*Suppose that a woman and her partner have lived together for 25 years **without being married** and have two children over 18 together. The woman dies without making a will. What do you think should happen to her property, which includes the house that she and her partner lived in?*

As is shown in Table 4.5, around a third of respondents (32 per cent) felt that the partner should be the sole beneficiary and in total just under one half (47 per cent) prioritised the partner in some way. Twenty-seven per cent opted for equal sharing and the remaining quarter prioritised the children in some way. It is clear therefore that the partner was favoured significantly more strongly than the children, although there was not such strong support as for the spouse in the equivalent scenario 2, where 80 per cent of respondents favoured the husband.

**Table 4.5 Woman survived by partner and children over 18**

| <i>Base: all adults aged 16+ in England &amp; Wales</i> | <i>NatCen Omnibus Survey</i> |
|---|------------------------------|
|   | Total                        |
|   | %                            |
| All to partner  | 32                           |
| Priority to partner                                     | 15                           |
| Shared equally  | 27                           |
| Priority to grown-up children                           | 14                           |
| All to grown-up children                                | 10                           |
| Other   | 1                            |
| <i>Base</i>   | <i>1,530</i>                 |

A further scenario was presented with a much shorter duration of cohabitation and with a baby rather than grown-up children:

*Suppose that a man and his partner have lived together for less than **two years without being married** and have a baby together. The man dies without leaving a will. What do you think should happen to his property, which includes the house that he and his partner lived in?*

Responses are shown in Table 4.6. An even smaller proportion of respondents favoured the partner, with only 25 per cent considering that the whole estate should go to the partner compared with 14 per cent who favoured all to the baby. However, when the proportions who said either 'all' or 'priority' to each of the competing interests are added together, the results are similar for the partner and the baby (38 per cent and 37 per cent respectively). Around a quarter (23 per cent) of respondents opted for equal sharing.

**Table 4.6 Man and partner together for less than 2 years with baby**

|   |                              |
|---|------------------------------|
| <i>Base: all adults aged 16+ in England &amp; Wales</i> | <i>NatCen Omnibus Survey</i> |
|   | Total                        |
|   | %                            |
| All to partner  | 25                           |
| Priority to partner                                     | 13                           |
| Shared equally  | 24                           |
| Priority to baby  | 23                           |
| All to baby   | 14                           |
| Other   | 1                            |
| <i>Base</i>   | <i>1,532</i>                 |

There may be numerous reasons why the public are less supportive of cohabitants than of spouses, but the existence of children in these two scenarios appears to be an influential factor (particularly when there are young children) if one compares the results with those from the following three scenarios. The findings of the qualitative study, described later in this section, identified a range of reasons that might account for the lower support for cohabitants.

The Law Commission (2009, para 4.70) has noted the importance of duration as a test for assessing the quality and stability of the relationship and other research has compared attitudes depending upon the length of the cohabitation (Williams et al, 2008). Three further scenarios involving cohabiting couples therefore sought to unpick the impact of the length of the cohabitation. In each case the couple had no children but the length of cohabitation was varied from two to five to ten years:

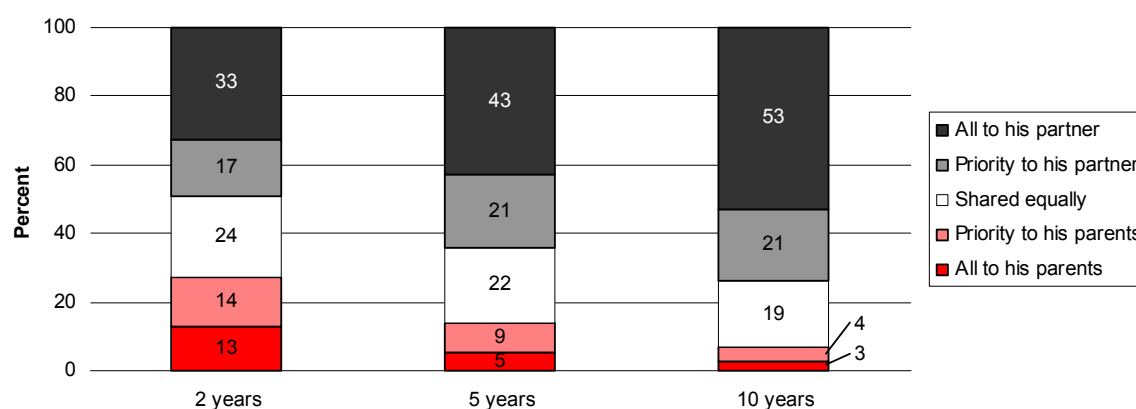
*Suppose that a man and his partner have lived together for (two/five/ten) years **without being married**. The man dies without making a will, survived by his **parents** and his **partner**, but no children. What do you think should happen to his property?*

In order to remove any impact on the data from the order in which the scenarios were presented, half the respondents received them in the order of two, then five, then ten years, with the other half being presented with them in the opposite order. In practice, the order in which the questions were asked made only minor differences to the results.

The results for the three scenarios are summarised in Figure 4.1. This shows that the duration of the cohabitation does indeed have a bearing on views about who should be prioritised. The proportion saying the partner should be the sole beneficiary increased from 33 per cent for a two-year cohabitation to 43 per cent for one lasting five years and 53 per cent for one lasting ten years. However, the proportions did not quite reach those for a surviving spouse, the most comparable scenario being the first, in which 63 per cent of respondents had said 'all to husband'. Similarly, the proportion favouring the partner over the parents increased from 49 per cent to 64 per cent and 74 per cent respectively with the length of the cohabitation. This compares with 83 per cent for the husband in the first scenario.

**Figure 4.1 Man and partner together for 2 / 5 / 10 years with no children**

Base: All adults aged 16+ in England & Wales



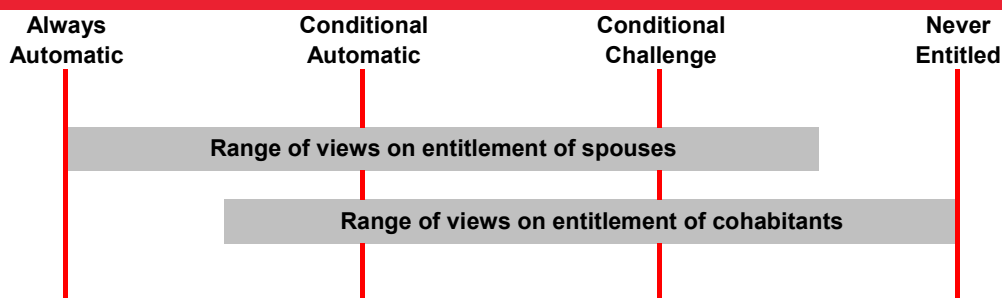
It is worth noting here the difference between the 53 per cent saying 'All to partner' in the scenario involving a ten-year cohabitation without children and the 33 per cent saying so in response to the first scenario involving cohabitants with (grown-up) children (Table 2.5 above). This is likely to be due to respondents favouring children (in the earlier scenario) as opposed to parents (in the later scenarios). Indeed, in the scenarios involving marriages, spouses were also not quite as strongly favoured where children were the competing interest.

Nonetheless, from the five scenarios involving cohabitants, it is clear that, in sharp contrast with the current law, there was substantial support for the cohabitant receiving *something* on intestacy. The lowest support for the cohabitant receiving something was 85 per cent where there was a short cohabitation and a baby, up to 97 per cent when the couple had cohabited for ten years and did not have a child. Furthermore, there was strong support in all the scenarios for the cohabitant receiving half or more of the estate – the lowest support being 62 per cent in the scenario involving the short cohabitation and baby, and the others ranging between 74 and 93 per cent. These findings are broadly in line with the Law Commission's earlier commissioned survey for their review of intestacy in the 1980s (see Law Commission, 2009: para 4.5 and Law Commission, 1989: para 58).

It is also noteworthy that cohabitants themselves did not favour cohabitants any more strongly than other groups. Cohabitants' responses to the scenarios above were similar to those among the sample as a whole. In fact, it was married respondents who were more likely to support cohabitants' entitlement (see section 7.3).

The qualitative study found that participants' views on the entitlement of cohabitants could be categorised into three broad perspectives: that they should have a right to inherit under the intestacy rules, subject to meeting certain conditions; that they should be able to challenge the intestacy rules; and that they should not be entitled to inherit in any circumstances. Support for cohabitants being entitled in cases of intestacy was thus lower than for spouses in two ways: it was considered that cohabitants should *not* be entitled to inherit irrespective of circumstances, unlike one perspective held of the entitlement of spouses; and it was considered by some that cohabitants should never be entitled, a view not identified in relation to spouses. This is illustrated by Figure 4.2. The remainder of this section describes the key differences identified in the qualitative study between cohabitants and spouses and the basis for these views.

**Figure 4.2 Views on the entitlement of spouses and cohabitants in cases of intestacy**



The first perspective suggested that a cohabitant should have a **right to inherit automatically subject to meeting certain conditions**. These conditions were described as necessary to demonstrate the requisite commitment or closeness in the relationship with the deceased. As evidenced by the quantitative findings, the presence of children and length of relationship were cited as important, although other factors were also identified. Longer relationships were seen as reflecting a committed relationship that could be treated equally to a marriage. However, the length of time participants considered as reflecting sufficient commitment varied from two to 20 years. Even amongst some married participants who saw great value in the institution of marriage there was a feeling that where people had made a choice not to get married this should not affect their entitlement, provided that they had been together for a certain length of time. However, the quotation below shows the difficulty of determining this figure:

*'I'm very old fashioned, a great believer in marriage but I still think that there are some relationships which are just as important as being married...some people just don't believe it's necessary to get married and I have to say that's their privilege. So, now I think that if you've been in a faithful relationship...then I think that person should be treated as a spouse. But then again how do you put a time frame on it? Do you say oh if they've lived together for two years, if they've lived together for five years?'*

(Female, 64+, Married)

Some participants expressed discomfort at fixing what was seen as an arbitrary length of time either side of which relationships were considered committed or not committed. Alternative ways of illustrating commitment were also suggested, such as whether cohabitants owned a home together, shared a joint savings account or, notably, had children together.

The existence of children of whom both cohabitants were parents raised its own set of issues and affected views on the entitlement of cohabitants in a variety of ways. In the survey scenarios, the existence of children reduced the support for the entitlement of the cohabitant: in Figure 4.1, 49 per cent supported the cohabitant having priority where they have been together with their partner for 2 years but had no children together; Table 4.6 shows support for the cohabitant having priority at 38% when the couple have a baby together. This view was identified in the qualitative study and pitted the surviving cohabitant against the children as competitors. It is characterised by two concerns: either to ensure that the child would be provided for; or to maintain lineage through blood relatives. In the former case, this reflected an assumption that children who were the result of a cohabiting relationship required provision to be made for them independently of their surviving parent. Others holding this view were more concerned that if inheritance went solely or predominantly to the cohabitant then it could be used to start another family and potentially



'disinherit' the children and break the chain of inheriting through lineage. This is illustrated by one participant's view on the cohabiting variation in Vignette 2:<sup>8</sup>

*'[The cohabitant] should have half and the children should have half. I'd make sure that...they would have something when they're older to carry on with, to go to university or pay for their own homes...when they're old enough...If he remarried or whatever, as I said, the children might not get what their right...what's rightfully theirs.'*

(Female, 64+, Widowed)

Alternatively, the qualitative study also identified that children do not necessarily represent a competitor for the estate, rather that their entitlement is seen as complementary to that of the cohabiting partner. This echoes the perspective discussed previously in relation to spouses that the entitlement of the cohabitant is based on them being able to provide for the children. In fact there was a view that the existence of children who were the product of the cohabiting relationship was the only condition in which a cohabitant should be considered automatically entitled. A more moderate view suggested that where cohabitants had not been together very long but had a young child together, this would increase their entitlement.

As with the entitlement of spouses, one perspective suggested that a cohabitant's **ability to inherit should only be established as the result of challenging the rules**. A range of circumstances in which this challenge could be made were suggested, which largely reflect the conditions described above. An additional view, however, proposed factoring in the contribution a cohabitant might have made to build the estate of the deceased in order to determine entitlement. If a cohabitant had contributed a deposit to the house, mortgage payments or supported the deceased in other ways then it was considered that they should be able to challenge a rule which prioritised others. More generally, this perspective on cohabitants was characterised by a concern that intestacy is a legal issue but cohabitation is not a legally recognised relationship. Participants felt that the lack of a legal tie meant that there was uncertainty over the nature of the relationship and the circumstances of this could not be determined by a set of rules.

A more direct application of this approach underpinned the final perspective on the entitlement of cohabitants: that they should **not be entitled in cases of intestacy under any circumstances**. Participants holding this view acknowledged that people might lose out unfairly as a result but there was a clear sense that intestacy is a legal issue and the law should only take into account legally recognised relationships. It was felt that making a will was an alternative legal avenue open for people to ensure the inheritance of a cohabitant if they had made a choice not to marry.

Overall, participants who considered that cohabitants should be treated the same as spouses did so on the basis that some cohabiting relationships could satisfy some combination of a range of conditions which made them equal to marriage. Others felt that there was a fundamental difference between the two which meant they should not be treated in the same way by intestacy law in any circumstances. It is worth noting here that irrespective of which position was adopted, Chapter 5 shows that cohabitants were always more likely than spouses to be regarded as having their inheritance under the intestacy rules subject to challenge by other relatives.

## 4.4 Divorced or separated spouses

The quantitative questionnaire did not include scenarios directly involving divorced or separated spouses but discussion related to their entitlement in cases of intestacy did arise during the

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<sup>8</sup> See Appendix G.



qualitative interviews. Part of the reason for this was that the qualitative sample included people who were separated and divorced who reflected on their own experience. Although related issues were also raised by other participants, the views below are therefore as heavily influenced by personal circumstances as by underlying principles. Separated spouses were considered more entitled than divorced spouses though the entitlement of both was regarded as conditional. There was also a view that divorced spouses should not have any entitlement.

The first perspective treated separated spouses equally to all spouses. This perspective emphasised the legal tie of marriage as the crucial element of the relationship with the deceased and was supported in one case by the suggestion that:

*‘...if she [the deceased] didn’t want him to get it all she should have made a Will.’*

(Male, 35-64, Separated)

An alternative perspective proposed different treatment for both separated and divorced spouses, considering their right to inherit in cases of intestacy as dependent on satisfying specific conditions. Where inheritance was conditional, this related most specifically to the existence of children who were the result of the relationship with the deceased, but was dependent upon whom the children lived with. If a separated or divorced spouse was looking after young children of the deceased, then it was felt that the separated or divorced spouse should be automatically entitled to inherit a portion of the estate either to provide for the children or to look after them until they were old enough to inherit it. This echoes some of the arguments of the previous section that the role of the potential beneficiary in continuing the deceased’s responsibilities is more important than the nature of their relationship with the deceased. A more vague perspective suggested that if a divorced spouse had been married to the deceased for a long period of time they would be more entitled to benefit. This was based on the fact that they would have contributed to the deceased’s estate before the divorce. This perspective was heavily influenced by participants’ personal experiences of divorce. There was a distinction made between separated and divorced spouses in terms of their ability to challenge the rules. There was stronger support for separated spouses challenging rules that did not give them automatic entitlement because the circumstances would be less clear-cut than in a divorce. Any such challenge should take into account the reasons for the separation and how long ago it took place.

The legal distinction between separated and divorced spouses also underpinned the view that divorced spouses should not be entitled to inherit on an intestacy in any circumstances. This view was characterised by a feeling that divorce is a clean and final break of a relationship and should always end any link with the deceased.

## 4.5 Second spouses

The survey also covered the issue of second marriages and the competing interests of the second wife with those of children from the deceased’s first marriage. This is amongst the most challenging of all the issues faced by the Law Commission in their consideration of amending the intestacy and family provision rules (see Law Commission 2009, paras 3.55-3.59). The operation of the current intestacy rules means that, in most cases, all of the estate will go to the surviving spouse; if the surviving spouse has no blood-tie with the deceased’s children those children are at risk of being completely ‘disinherited’ if the surviving spouse does not leave a will, or leaves one but does not include the deceased’s children. Two scenarios were presented to respondents, with differing ages of children from the first marriage:

Suppose a man dies without making a will. He has been married **twice**. He is survived by his second wife and two children over 18 from his **first** marriage.  
In general, what do you think should happen to his property, which includes the house that he and his second wife lived in?

Say the children from his first marriage were both aged **under 10**.  
What do you think should happen to his property?

Responses are shown in Table 4.7. Relatively few favoured giving all to the second wife (15 and 11 per cent respectively) compared with the equivalent scenarios 2 and 3 for the first (only) wife (51 and 50 per cent respectively). Under a half (46 per cent) prioritised the second wife over grown-up children from the first marriage and only 38 per cent did so in the case of children under 10, compared with 80 per cent for the first wife with adult children and 76 per cent for the first wife with young children in the earlier scenarios. Just over a third opted for equal sharing between second wife and children, compared with 16 and 17 per cent in the earlier scenarios.

| Table 4.7 Man survived by second wife and young/grown-up children from first marriage |                                     |                       |
|---|-------------------------------------|-----------------------|
| Base: All adults aged 16+ in England & Wales  |                                     | NatCen Omnibus Survey |
|   | Age of children from first marriage |                       |
|   | Grown-up children                   | Children under 10     |
|   | %                                   | %                     |
| All to second wife  | 15                                  | 11                    |
| Priority to second wife   | 31                                  | 27                    |
| Shared equally  | 35                                  | 34                    |
| Priority to children from first marriage  | 13                                  | 21                    |
| All to children from first marriage   | 5                                   | 5                     |
| Other   | 1                                   | 2                     |
| Base  | 1,529                               | 1,524                 |

A further scenario involving a second wife was presented to respondents which introduced the complication of children from both marriages.

Say the man has children over 18 from **both** marriages.  
What do you think should happen to his property?

In this scenario, although there was still only weak support for the second wife receiving the whole estate (16 per cent), 61 per cent said she should be prioritised (wholly or as part of a sharing arrangement) (Table 4.8). It may be that the second spouse received more support in this scenario because she had borne some of the deceased's children or possibly because respondents began to realise there might not be enough in an estate to make sharing out between the beneficiaries worthwhile. Only small proportions opted for sharing between the second wife and either the children from the first or second marriage (seven and four per cent respectively) with 19 per cent saying that all the children should receive the entire estate.

Support for second spouses was stronger among those who were themselves second (or later) spouses (see section 7.3).

**Table 4.8 Man survived by second wife and children from both marriages**

|  |                              |
|--|------------------------------|
| <i>Base: all adults aged 16+ in England &amp; Wales</i>      | <i>NatCen Omnibus Survey</i> |
|  | Total                        |
|  | %                            |
| All to second wife   | 16                           |
| Priority to second wife                                      | 45                           |
| Shared between second wife and children from first marriage  | 7                            |
| Shared between second wife and children from second marriage | 4                            |
| All to children from both marriages                          | 19                           |
| Shared equally   | 8                            |
| Other  | 1                            |
| <i>Base</i>  | <i>1,516</i>                 |

The range of views identified in the qualitative study towards the entitlement of second spouses was influenced by the circumstances of the relationship. One perspective was based on the assumption that the second spouse will provide for their own children and, in some cases, the deceased's children from the previous relationship. A variation on this view suggested that the deceased's children from a previous relationship should be provided for through maintenance payments from the second spouse rather than inheriting directly. The result of both these views was that children from previous relationships did not need to inherit directly. An alternative view prioritised any biological children over the spouse on the basis of blood ties and lineage, which meant that the second spouse would not be entitled to inherit anything. The competing interests of spouses and children from different relationships are discussed in more detail in section 5.5.

Second spouses were regarded as most entitled where there were no children from the deceased's previous relationship. This was based on the view that divorce (from the previous spouse) represents a complete break in that relationship; the second spouse should, therefore, be treated as any other current spouse. An alternative view was that, irrespective of whether children were involved, the entitlement of the second spouse in comparison with the previous spouse should be dependent upon the relative length of each marriage. This reflected a concern that former spouses receive something from an estate they had helped to build, but also a fear that an estate could move out of the family following only a short marriage.

## 4.6 Summary

- There was very strong support amongst the survey respondents for the surviving spouse: when the deceased left a spouse and parents, 63 per cent thought that all should go to the spouse and 83 per cent thought that the spouse should receive all or priority over the parents.
- Support for the spouse was less strong when the deceased left children: 51 per cent thought that all should go to the spouse and 80 per cent gave her priority in the case of adult children, with 50 per cent and 76 per cent respectively in the case of young children.
- The qualitative study participants showed strong support for the surviving spouse, highlighting the significance of the marriage tie itself, along with other factors such as contributions and emotional closeness.

- Support for a civil partner was not as strong as for the surviving spouse, 44 per cent favouring all to the civil partner and 65 per cent favouring all or priority to the civil partner (compared with 63 per cent and 83 per cent in the equivalent spouse scenario). Qualitative study participants expressed views ranging from treating the civil partner exactly the same as a spouse to not entitling them to anything at all on the basis that the relationship was not as stable or reflecting personal discomfort with same sex relationships.
- Support for cohabitants receiving something from the estate was very high, ranging from 85 per cent to 97 per cent across all five scenarios. Support for the cohabitant receiving half or more of the estate ranged from 62 to 93 per cent.
- Support for cohabitants gradually increased with the duration of the cohabitation: 49 per cent gave all or priority to the cohabitant from a two year relationship, 64 per cent from a five year relationship and 74 per cent from a ten year relationship.
- The qualitative study participants expressed a range of views on cohabitants that was less supportive overall than attitudes towards spouses. Unlike views on the entitlement of the spouse, there was no view that cohabitants should always automatically inherit but there was a view that they should never inherit. The duration of the relationship and other evidence of commitment were seen as important factors in determining these views. Attitudes were more complex when considering the presence of children.
- Relatively few respondents favoured giving all of the estate to a second wife compared with a first (only) wife. Under a half prioritised the second wife over grown-up children from the first marriage and only 38 per cent did so in the case of children under 10, compared with 80 per cent for the first wife with adult children and 76 per cent for the first wife with young children. There was stronger support for the second wife in the case of the deceased having children from both marriages.
- The qualitative study participants held mixed views on second spouses in which entitlement was sometimes seen as conditional, for example upon the length of the marriage. Where the deceased had left children from a previous marriage there was a fear that the estate would leave the family line unless provision was expressly made for the children.

# 5 Intestacy: Entitlement of descendants

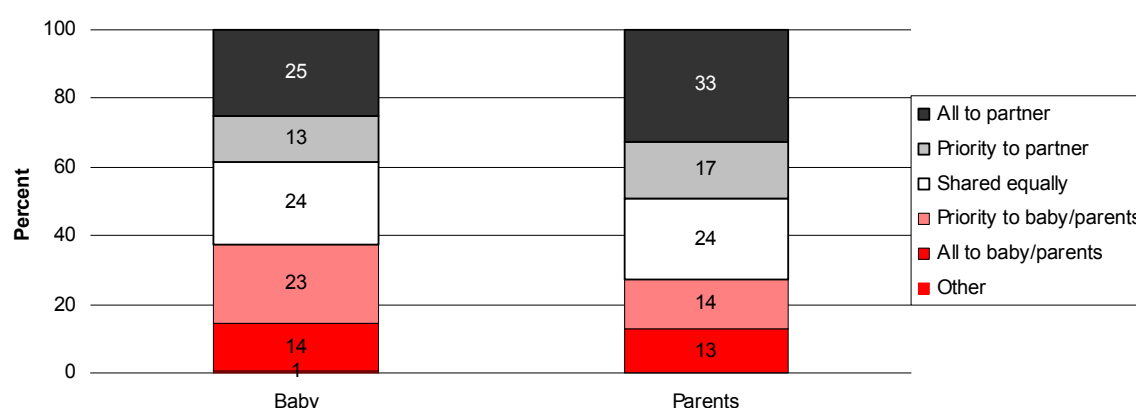
This chapter describes the findings from the quantitative survey and the qualitative study on the entitlement of descendants. The first section provides a brief description of the support for descendants in the intestacy rules where there is no surviving spouse or partner. The following four sections involve more complicated scenarios and explore attitudes towards the entitlement of descendants where there is a surviving spouse or partner, complementing the discussion in Chapter 4. They address the issue of whether these are competing or complementary interests in different circumstances: where there are children from a current relationship, children from a previous relationship, step-children or adopted children. The final two sections present findings on the impact of the age of descendants on their entitlement and a brief discussion of the entitlement of grandchildren.

## 5.1 Children versus parents – competing interests

As the previous chapter illustrated, the quantitative survey presented respondents with a number of intestacy scenarios which featured competing interests in terms of entitlement. The survey did not include a scenario that asked respondents directly to consider the interests of the deceased's children and the deceased's parents against one another. However, by comparing the results across two separate scenarios that included first, a surviving partner and a baby and secondly, a surviving partner and parents, we can attempt to infer how people view the relative weight attributed to children vis-à-vis parents. Figure 5.1 shows the responses to the scenario involving a cohabitant of less than two years versus a baby (the left hand column) and then the scenario involving a cohabitant of two years versus the parents (the right hand column). It shows that the proportion prioritising the baby was higher than the proportion prioritising the parent (37 per cent compared with 27 per cent). Although not shown in Figure 5.1, results from the scenarios involving a spouse produced a similar, slightly less marked, pattern. The proportion favouring a parent (against a surviving spouse) was two per cent whereas the proportion favouring children against a surviving spouse were four per cent for children over 18 and seven per cent for young children (see Tables 4.1, 4.2 and 4.3 above).

**Figure 5.1 Comparison of scenarios involving children and parents**

Base: All adults aged 16+ in England & Wales



The qualitative study found that descendants were given primacy over parents where there was no surviving spouse or partner. In the absence of a spouse or partner, descendants were considered entitled on the basis of being the next of kin. This was complemented by the idea of maintaining lineage and/or enabling the continuation of the deceased's responsibilities where the descendants were young children. Exceptions to this view were where participants felt that other relatives in particular circumstances should be considered by the rules ahead of descendants or that they should be able to challenge these rules, discussed further in Chapter 6.

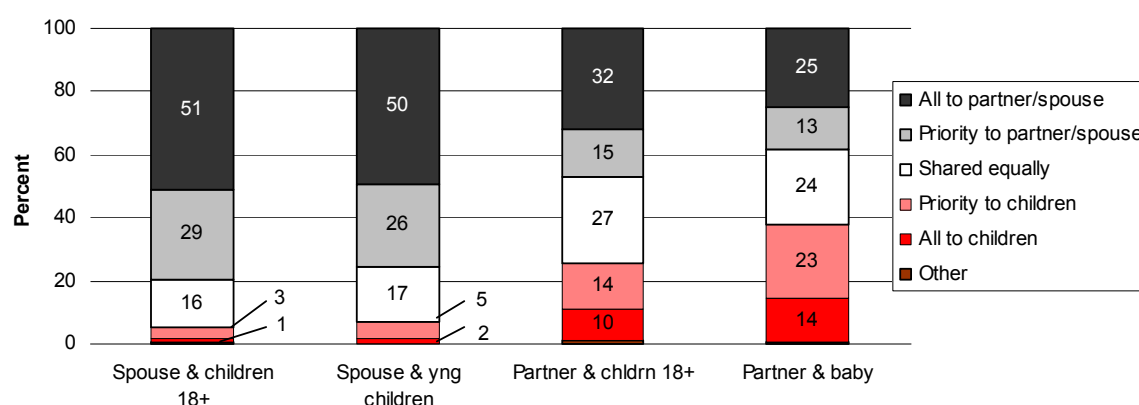
There was a strong sense that where surviving children were to inherit, the estate should be divided up equally amongst them. This view represented a rejection of factors such as relative need and the closeness of the relationship between different children and the deceased; it was felt that these subjective judgements could not be taken into account by intestacy law and could also generate disagreement. However, there was some support for beneficiaries being able to challenge a rule that determined an equal split if it could be proven that one child had little or no relationship with the deceased or had neglected them, for example during a period of illness. An alternative view to splitting the estate equally between descendants suggested that the entire estate should go to the eldest son or eldest child to distribute as they saw fit. Where an estate consisted of a home and other property, there was a suggestion that the other property should be split equally but that the home should go to the eldest child to avoid it having to be sold and divided.

## 5.2 Spouses or partners versus children - competing interests

As was shown in the previous chapter, the quantitative survey included a number of scenarios which featured competing interests between a partner or spouse of the deceased and their children. Responses to these scenarios are summarised in Figure 5.2. It is clear that in most of these scenarios, the partner or spouse was favoured, rather than the children. The only exception to this was in the scenario involving a couple cohabiting for less than two years, with a baby (on the far right of Figure 5.2, where the proportions favouring the partner and the baby were similar). However, a substantial proportion of respondents favoured the children receiving *something*, ranging from 48 to 74 per cent across all the scenarios involving children.

**Figure 5.2 Spouses/partners versus children**

Base: All adults aged 16+ in England & Wales



Although not shown in the figure above, in the scenario involving a second spouse and children from both marriages, the second spouse was again favoured over the children (see Table 4.8). Sixteen per cent said that the whole estate should go to the second wife with a further 45 per cent

saying she should get priority. This compares with just four per cent who said it should be shared between the second wife and her children, seven per cent who said it should be shared between her and the children from the first marriage, 19 per cent saying all to children from both marriages and eight per cent saying it should be shared equally.

The implicit preference for the spouse or partner over children reflects the preferences evident in the allocation of assets in wills reported in section 3.2.

### 5.3 Young children from current relationships

As was demonstrated above, the findings from the quantitative study show greater support for the spouse to inherit in cases of intestacy than children. In the qualitative study participants argued strongly that the intestacy rules should pay serious consideration to how they impact upon young children from the deceased's current relationship. The findings revealed a more nuanced picture of the overlapping relative entitlement of spouses and descendants, as participants pondered the implications of the entitlement of one for the needs of the other. The importance afforded to the entitlement of children was based on two principles, that the intestacy rules should continue to fulfil the responsibilities of the deceased, and that the family unit should be supported. In some cases, viewing inheritance as a fundamental part of maintaining family lineage also influenced people's views. Attitudes were dependent on the assumptions people felt could be made about how the surviving spouse or partner would behave in relation to surviving children: participants created a distinction as to whether young children should be able to inherit directly in cases of intestacy or merely ensure they are provided for through the entitlement of others, as illustrated in Figure 5.3.

| Figure 5.3 Views on entitlement of children   |                                  |                            |
|---|----------------------------------|----------------------------|
| Assumptions   | Entitlement of children          | How provided for           |
| Rules should assume spouse or partner will always act in best interests of child and/or maintain family lineage.  | Provision via the spouse/partner | Rules – spouse/partner     |
| Rules can assume spouse or partner will act in best interests of child and/or maintain family lineage in some circumstances but should also be open to challenge. | Dependent on circumstance        | Arbitration/challenge      |
| Rules should not assume spouse or partner will act in best interests of children and/or maintain family lineage.  | Direct inheritance               | Rules – direct inheritance |

### Provision via the spouse or partner

One approach to thinking about the entitlement of descendants was to see the children as being provided for in all cases via provision for the spouse or partner. This was based on a view that the surviving spouse or partner would have the best interests of their own child at heart or maintain family lineage.<sup>9</sup> This is a possible explanation for why survey respondents supported the entitlement of spouses and, to a lesser extent, partners, more strongly than children. This attitude was based on two principles. Firstly, there was a feeling that **the deceased's responsibilities to his or her children** would be most effectively continued by the spouse or partner. In these cases, the deceased's estate should be passed to the spouse or partner on the basis that one may expect a parent to care for their own child. This was a primary objective for intestacy law according to

<sup>9</sup> This is referred to in the literature as 'Conduit Theory'. A discussion of this can be found in Law Commission (2009) paras 3.98-3.111 and we consider it further in Chapter 8.



some participants but it was acknowledged that it did not necessarily mean that the child would actually receive anything directly:

*'Because they are young children, they still need somewhere to live, still need someone to look after, again it may be the fact they were looking after them jointly, but [surviving spouse] has to come out of work so it should all just go to her...children are too young to say I've got this need and I've got that need so it should just all go to [surviving spouse].'*

(Female, 35-64, Single)

It was also felt that the situation would become too complicated if the intestacy rules attempted to share an estate amongst people from what was considered to be the same family unit. In the longer-term, there was a sense that once the children were old enough to fend for themselves then the spouse or partner should have to decide whether directly to pass on any of the estate.

An alternative view saw the spouse as passing the inheritance down through the generations to **maintain the blood-tie**. This view was characterised by an expectation that it is the norm to pass to the spouse and for children to inherit once both parents had died – a point borne out by the findings of the quantitative survey in relation to will-making decisions (see section 3.2). But some participants took this view further, suggesting that children should receive all their inheritance upon reaching a certain age, disinheriting the spouse and forcing them to give up the family home.

Participants suggesting that intestacy law should always make these assumptions did acknowledge that there could be situations where the actions of the spouse or partner might threaten the line of inheritance or, in isolated cases, where the surviving spouse or partner might not have the best interests of their own child at heart. In the former case, however, it was felt that this was *'just one of those things'* or *'tough luck'*, with the lack of sympathy often based on the conviction that if the deceased had wanted to ensure a particular course of action for their estate then they should have made a will. In the second case, some participants felt that although this would go against the principle of continuing the responsibilities of the deceased, there were other mechanisms to protect children not properly looked after by their parents. It was not considered the role of intestacy laws to make judgements about the treatment or protection of children, nor was it felt practical to incorporate a mechanism that could do so into such rules.

## Provision for children in some circumstances

A second perspective doubted whether the assumptions underpinning the first approach could be made in all circumstances. In practical terms it was proposed that either the rules themselves should anticipate circumstances in which the assumptions might not hold true or that the rules should be challengeable in these cases. One approach suggested that where there was a surviving spouse the rules should *always* stipulate that part of the estate is put in a trust fund to guard against a spouse not providing for a child. To preserve an estate down the generations, consideration was also given to allowing the surviving spouse to use only part of the estate during their lifetime with the remainder passing to the children on their death. Such views reflect the current intestacy rules, which limit the spouse to a life interest in half of the sum above the statutory legacy and personal chattels, with the residue held on trust for minor children or distributed immediately to the adult children. An alternative view, also discussed in relation to will-making in Chapter 3, suggested that children should have greater entitlement to inherit directly if the deceased had been cohabiting. Marriage was considered a more secure environment in which to trust that the actions of the surviving spouse would be in the best interests of the child. Interestingly this perspective focused not on the nature of the relationship between the deceased and the child,

or between the child and the surviving parent - what was deemed important was the nature of the deceased's relationship with the child's other parent.

## Children always to inherit directly

A final perspective was underpinned by the conviction that intestacy rules should not be based on assumptions about the spouses' actions regardless of the circumstances. This approach gave further weight to the entitlement of children on the basis of not only meeting their needs but also maintaining inheritance through lineage. It was based on two key factors which were the corollaries of the above assumptions: that children should be entitled to inherit as their birthright, and not just to be provided for or to have to wait until both parents have died before they inherit; and that the rules cannot necessarily assume that the surviving spouse or partner would continue to meet the deceased's responsibilities to the child. Different approaches to how this automatic right to direct inheritance should work in practice were identified: either giving children primary entitlement, sharing the estate equally or entitling children to specific elements of the estate.

Where the entitlement of children was the primary concern, participants suggested a number of ways this might take place. First, the idea of a trust fund for younger children was proposed – the age up to which this was considered necessary ranged from 16 to 21. Interestingly, however, primary entitlement for children did not always mean that the spouse would not inherit, as participants suggested that provision should be made for the spouse, including being able to remain in the family home. A variation on this was that young children should only receive their inheritance from a surviving spouse upon reaching a particular age, which meant 'disinheriting' the spouse of property and/or savings. As it could not be assumed that the spouse would automatically honour such an arrangement, participants felt that the intestacy rules should stipulate that the remainder of the estate should transfer in this way once children reach the required age.

Another approach to ensuring that children inherit directly in cases of intestacy was to propose that the intestacy rules give equal entitlement to children and the spouse or partner. Although it was acknowledged that this would be complicated when children were young and there remained a need for the spouse to raise the children, it was seen as a way of protecting the line of inheritance, and was also based on a view of fairness whereby everybody should receive something irrespective of the circumstances. One way of meeting the aim of fairness but ensuring that the spouse could still raise the children while they were young was for the rules to stipulate that children would only be entitled to specific elements of the estate. For example, children would be entitled only to savings or the residue left after the spouse had covered looking after them, so that children would inherit something. However, the family unit could also be maintained and in particular, the spouse would be able to occupy or inherit the family home, at least while it was still required for bringing up the children. Overall there was disagreement as to whether dividing the estate equally was simpler or would create more complication and argument.

## 5.4 Children from previous relationships

In the previous chapter (section 4.5), responses to the survey scenarios involving the competing interests of the deceased's second wife and children from either the first or second marriage were described. For convenience, these responses are repeated below in Table 5.1. As was highlighted in Chapter 4, while on balance respondents still favoured the second wife, there was stronger support for the deceased's children receiving priority (17 per cent and 26 per cent favouring adult and young children) than in the scenarios involving a first wife (where only four per cent and seven per cent favoured the children). In addition, it was noted that the second wife received more support in the scenario where she had children with the deceased (the third scenario in Table 5.4).

**Table 5.1 Man survived by second wife and young/grown-up children from first marriage**

| Base: All adults aged 16+ in England & Wales                 |                                       |                                       | NatCen Omnibus Survey        |
|--|---------------------------------------|---------------------------------------|------------------------------|
|  | Man survived by second wife and...    |                                       |                              |
|  | Grown-up children from first marriage | Children under 10 from first marriage | Children from both marriages |
|  | %                                     | %                                     | %                            |
| All to second wife   | 15                                    | 11                                    | 16                           |
| Priority to second wife                                      | 31                                    | 27                                    | 45                           |
| Shared equally   | 35                                    | 34                                    | -                            |
| Priority to children from first marriage                     | 13                                    | 21                                    | -                            |
| All to children from first marriage                          | 5                                     | 5                                     | -                            |
| Shared between second wife and children from first marriage  | -                                     | -                                     | 7                            |
| Shared between second wife and children from second marriage | -                                     | -                                     | 4                            |
| All to children from both marriages                          | -                                     | -                                     | 19                           |
| Shared equally   | -                                     | -                                     | 8                            |
| Other  | 1                                     | 2                                     | 1                            |
| Bases  | 1,529                                 | 1,524                                 | 1,516                        |

The qualitative study found that views on the entitlement of children from previous relationships fell into three broad categories:

- Entitled to inherit directly
- Not entitled to inherit directly but entitled to some provision
- Not entitled to inheritance or provision

These views were based on the same set of principles outlined in section 5.3 in relation to children from the current relationship. However, participants drew on these in different ways reflecting the relative importance they attached to blood ties and living as part of the same family unit.

The first perspective was that **the deceased's children from previous relationships should always inherit directly**. This view was held particularly strongly by those who had supported the direct inheritance of children from current relationships and was characterised by a firm belief in the importance of blood ties and the line of inheritance. The most important factor here was the relationship of the child, as potential beneficiary, to the deceased, and since this had not changed as a result of the deceased remarrying, then the entitlement of the child should not change. Previously, participants had proposed that in practical terms the estate should be split between a surviving spouse and children from that relationship; the existence of a child from a previous relationship meant only that there was an extra beneficiary to receive an equal share.

The view that children from previous relationships should inherit directly and automatically was also held by individuals who did not see children from current relationships as entitled in the same way. These participants did not continue to hold the assumptions on which they had based their views on the entitlement of children from the current relationship. First, where inheritance through the current spouse was previously considered a viable way to assume the maintenance of lineage, it

was felt that this was not a reasonable assumption to make for the inheritance of children from previous relationships. Secondly, some participants acknowledged that where a child from a previous relationship was involved, the responsibilities of the surviving spouse would not exactly mirror those of the deceased and so it was more questionable to assume they would be willing to continue them. The quotation below illustrates how attitudes changed when there was a child from a previous relationship involved:

*'Then I would be tempted to actually change it and make some provision for the children there because when it's done [by current spouse], would it be done fairly because one is not her child? I almost think whatever is divided up should be an equal amount...because it's still his child...So they should have the equal rights, and that's it.'*

(Male, 35-64, Cohabiting)

It was also clear that participants' own situations were not always a deciding factor in what they felt should happen in this situation:

*'My ex-partner, if anything would have happened to him, he's got two children, and hopefully I would have seen them all right...[but] I think they've got two children, one from their marriage and one from a previous relationship...perhaps in a case like that, then a certain amount of it should be put in provision for his other child as well.'*

(Female, 35-64, Single)

As a result of either one or a combination of these factors, it was felt that the intestacy rules should automatically provide for the child from a previous relationship. There was a variety of ways in which it was felt that this might happen. One view was that the existence of a child from a previous relationship meant that the entire estate should be shared out between the surviving spouse or partner and all the deceased's children. The implication of this was that not only could the intestacy rules not assume that the current spouse would provide for this child but also that the share of children from the current relationship should be stipulated in the rules to ensure that all children would be treated equally. An alternative option would allow the child from a previous relationship to inherit a portion of savings or other elements of the estate not tied up in the current family home. This was proposed with a view to avoiding a situation where seeking to secure an inheritance for a child from a previous relationship had a significant impact on the ability of the existing family unit to continue to live together. Finally, it was also suggested that intestacy rules should in some way ensure that the surviving spouse passed on wealth to the child from the previous relationship and that if this did not happen then the latter should be able to make a challenge.

A second perspective suggested that children from previous relationships should **only be entitled to be provided for or maintained via another beneficiary**, but not to inherit from the estate directly. For those who thought strongly that children from current relationships should be provided for in this way, this view was maintained for all children from previous relationships. For others, provision was seen as dependent upon satisfying certain conditions. First, if the child from the previous relationship lived as part of the family unit then it was felt that they could be treated in the same way as the other children, and would be more likely to be provided for by the current spouse. If the child did not live with the surviving spouse, then a financial link was seen as a necessary requirement. For example, if the deceased had been making regular maintenance payments to the child, then it was felt that these should continue to be made from the estate where possible. The implication of this view was that where the deceased had had no financial link with a child from a previous relationship living elsewhere then that child should have no entitlement.

This leads on to the third perspective that a child from a former relationship **should not be entitled to inherit in any circumstances**. The basis for this view was that the legal ties had been cut by a divorce and the child should have been financially maintained through that settlement. There was an acceptance that the child would receive nothing. Again, this was based on a strong belief that people should make a will if they want to ensure that particular people benefit from their estate:

*'If it went to the legal spouse [it] could well mean that one of your two children is entirely cut out...there's a significant part of me that says well that's tough, you didn't make a will'*

(Male, 35-64, Married)

In addition to this it was felt that in the absence of a will, intestacy rules cannot cover every situation, so it should be up to the current spouse to decide how to provide for the child from a previous relationship. However, there was also some support for the view that children from previous relationships should be able to challenge for provision if, for example, the current spouse did not independently make provision for the child.

## 5.5 Step-children and adopted children

Although no survey questions specifically addressed attitudes towards step-children<sup>10</sup> or adopted children, these were raised by participants in the qualitative study. The entitlement of these groups was justified on similar grounds to the deceased's own children, although this was contingent on whether they could be considered as part of the immediate family or in some way dependent upon the deceased. A range of factors, including existing financial links, whether they were living with the deceased and the 'closeness' of their relationship were influential.

### Step-children

Where it was felt that step-children should have some entitlement this was based on their being 'part of the family unit' or 'immediate family'. In such circumstances, the deceased was considered to have some responsibility for the welfare of the step-child. There was a range of factors that participants felt demonstrated that a step-child was part of the family and should be considered equally to the deceased's own children. First, participants considered the nature of the relationship to the deceased, which was described in a number of ways including whether they treated the step-child in the same way as their own children or whether they had formed a 'close bond'. It was considered that this would be more likely where the step-children had lived with deceased for most of their life and been brought up as part of the family, a variation of this suggesting that when you marry someone you also take on their children. A second consideration was whether the step-child was financially dependent upon the deceased and that if this was the case, then the principle of continuing the deceased's responsibilities came into play and it was felt that the step-child should be treated in the same way as the deceased's own children.

A third perspective on step-children was that meeting some of the conditions above only entitled step-children to challenge the rules. This view acknowledged that '*many step-children have closer relationships than blood children*', but that it would be difficult for a set of rules to determine this:

*'If you had a stepchild it depends on the scenario of the situation that you're in because obviously they're not blood...but if they acted as a son or daughter to you, how would you*

---

<sup>10</sup> A scenario did include children from two different marriages but these were all children of the deceased, rather than the deceased's step-children. As we did not include step-children in the scenarios, we did not define the term, and participants may have meant children of both married and unmarried partners (whereas legally, a step-child is defined as the child of a spouse only).

*interpret the difference between being, for them being like a son or being your partner's son or daughter? I don't think you'd be able to interpret the difference...there's no simple answer that could solve every situation in that way.'*

(Female, 16-34, Single)

Even when meeting these criteria, there was a view that step-children remained less entitled than biological children: *'I'm not sure they're entitled...it's not really theirs'* (Female, 16-34, Single) was a sentiment held by those with a strong attachment to blood ties. There were two practical applications of this view. One emphasised that if the step-child had been brought up by the deceased or if they could prove some of the other factors mentioned above then they should be entitled to something, but not the same amount as the deceased's own children. But another view was that step-children should never be entitled. This view was held by individuals who felt that the estate should go to the surviving spouse and that it should be up to them rather than intestacy rules to decide what, if anything, the step-child should receive.

## Adopted children

Not all qualitative interviews were able to discuss attitudes towards the entitlement of adopted children in the allotted time. Where this was discussed, a more straightforward set of views was expressed. Participants argued that adopted children should be treated exactly the same as the deceased's biological children because of the legal tie of adoption. However, some who felt this also took the view that an adoptee should be entitled to inherit directly, rather than just assume that the surviving spouse/adoptive parent would provide for them, given that this would not be their own child. There is seemingly a contradiction here in the use of different principles: on the one hand the legal link was seen as enough to equate the adopted child with the deceased's biological child, yet this was not felt to be sufficient to assume that the surviving spouse would treat the adopted child the same as their own child.

## 5.6 Adult descendants

The qualitative study identified sometimes contradictory views on the impact of the age of descendants on their entitlement. Three distinct views were identified that compared the impact of age not only with the right of descendants to inherit *per se* but also with whether they should receive that inheritance directly.

Influencing the first perspective that adult descendants were **less entitled** than young children was the view that their entitlement was based only on blood and not on being a responsibility of the deceased. For those who had less concern with birthright and lineage and prioritised the spouse relationship over the parent-child relationship this meant that adult descendants should not be entitled to inherit in cases of intestacy. A second perspective applied the **same principles but in a different way** for adult descendants. This view was characterised by the belief that age should not affect entitlement as such, but would impact on how and when the descendant actually inherited their share of the estate. For example, while it was felt that young children would be provided for by the spouse or would only receive their inheritance once they reached a requisite age, adult descendants would receive their entitlement immediately. Finally, there was also a view that the age of a descendant should have **no impact on their entitlement**. This view was held by those who either thought that young children should only inherit through a surviving spouse or those committed to the view that children should always be entitled to a direct inheritance. In the former case it was considered that descendants should wait for their inheritance until both their parents had died; in the latter case the parent-child relationship was seen as more important than the spouse relationship in order to ensure inheritance down the bloodline.



## 5.7 Grandchildren

The *per stirpes* rule currently provides that 'Where a person dies intestate having outlived one or more of his or her children but leaving grandchildren whose parent has already died ... those grandchildren are entitled to share that part of the estate to which their parent would have been entitled if he or she was still alive.' (Law Commission, 2009 para 5.20(2)). A scenario was included in the survey which sought to measure how much support there was for this principle:

*Suppose that a woman dies without making a will. She had one son and one daughter, both of whom have died. She is survived by her son's **two** children and her daughter's **four***

There was overwhelming support for equal or per capita sharing within the same generation. Most respondents (92 per cent) felt that the estate should be shared equally amongst the six grandchildren (Table 5.5).

**Table 5.2 Woman survived by son's two children and daughter's four children**

| <i>Base: all adults aged 16+ in England &amp; Wales</i>                 | <i>NatCen Omnibus Survey</i> |
|---|------------------------------|
|   | Total                        |
|   | %                            |
| Half to her son's two children and half to her daughter's four children | 8                            |
| Equally amongst the six children  | 92                           |
| Other   | *                            |
| <i>Base</i>   | <i>1,531</i>                 |

Participants in the qualitative study were not prepared to consider the entitlement of grandchildren in cases of intestacy where there were surviving relatives considered closer to the deceased, such as a spouse or partner, or children. This was in contrast to the entitlement people suggested grandchildren might have under their own will. This probably reflects the view that subjective judgements are more appropriate in will-making than under the intestacy rules. Grandchildren were considered entitled in cases of intestacy where there were no children or surviving spouse either ahead of or alongside parents or siblings; a further view was that they would only be considered after parents and siblings. Those holding the former view noted a concern for inheritance to go down the generations rather than up or across. Where parents and siblings were considered equal or of greater priority, the closeness of the relationship was cited as the main factor.

Given the findings from the qualitative study noted above, it is acknowledged that responses to the survey question might have been different to those shown in Table 5.2 had the scenario involved the survival of one or both of the deceased's children, and so inferences should not be drawn as to how respondents would evaluate claims from descendants of different generations. In practice, this is likely to be a more common scenario than that used in the survey.

## 5.8 Summary

- Children were favoured more strongly than parents in the absence of a surviving spouse or partner (37 per cent compared with 27 per cent in the scenario involving a cohabitant of less than two years versus a baby).



- Qualitative participants who held this view felt that children should be seen as next of kin, and/or it was considered important to maintain lineage and to meet the deceased's responsibilities to dependent children. There was a strong view that where children were to inherit, the estate should usually be divided equally between them.
- Surviving spouses or partners were favoured over children, ranging from 80 per cent in the case of a surviving spouse with adult children, to 38 per cent for a cohabitant with a baby, reflecting preferences evident in relation to will-making and the current intestacy rules. However, a substantial proportion of respondents favoured children receiving *something* from the estate.
- One reason identified by qualitative participants for the support for spouses or partners was that they could provide for the children. Whether a child should be provided for indirectly, through the provision made to the surviving spouse/partner, or directly in their own right, depended upon how far respondents trusted the surviving spouse/partner to act in the children's best interests.
- Children were favoured more strongly in the scenarios involving second spouses, ranging from 17 to 26 per cent, compared with just four per cent and seven per cent in the case of a first spouse. They were not, however, favoured as strongly as the second spouse, who was favoured by 46 per cent where the deceased left adult children from a former marriage and 38 per cent where the deceased left young children. The second wife received considerably more support where she had had children with the deceased (61% giving her priority in such circumstances).
- Participants in the qualitative study stressed the importance of the blood-tie between the deceased and his/her children from all relationships and the risks if provision were not made for those children. Whether the child was living in the same family unit or being financially supported by the deceased were seen as relevant factors supporting their entitlement, whilst others felt that if there had been a divorce settlement for the first spouse and child, then the child should have no entitlement.
- Participants distinguished step-children from the deceased's own children in emphasising the lack of blood-tie, but factors such as whether they were part of the deceased's family unit or had been supported by the deceased were again deemed relevant and influenced the view that in some cases step-children should be treated in the same way as the deceased's own children.
- In contrast to the current *per stirpes* rule, there was overwhelming support (92 per cent) for equal or per capita sharing within the same generation; however, respondents were not asked to evaluate competing claims by descendants in different generations.

## 6 Intestacy: Entitlement of other family and non-family members

This chapter describes attitudes towards the entitlement of other potential beneficiaries not covered elsewhere in the report. The chapter begins with quantitative findings on the entitlement of parents and siblings followed by some further detail on the basis for these attitudes as identified by the qualitative study. The remainder of the chapter presents findings from the qualitative study in relation to the entitlement of other family members and non-family relations such as friends and carers.

### 6.1 Parents and siblings

In the quantitative survey, respondents were presented with a scenario involving an unmarried person without children, dying intestate. This was designed to gauge people's views regarding the competing interests of parents and siblings. Half the sample was shown a scenario involving a mother and a brother while the other half was shown the same scenario except the sibling was a sister.

*Suppose that a woman dies without leaving a will. She is survived by her **mother**, and her **brother/sister**. In general, what do you think should happen to her property?*

The results are very similar for a brother and a sister, suggesting that the sex of the sibling has little impact on people's preferences. Just over a half of respondents opted for an equal sharing arrangement in both cases (51 per cent and 54 per cent) (Table 6.1). A significant minority (around two-fifths) favoured the mother.

| Table 6.1 Woman survived by mother and a sibling |                |                       |
|--|----------------|-----------------------|
| Base: All adults aged 16+ in England & Wales     |                | NatCen Omnibus Survey |
|  | Sex of sibling |                       |
|  | Brother        | Sister                |
|  | %              | %                     |
| All to mother                                    | 21             | 17                    |
| Priority to mother                               | 20             | 22                    |
| Shared equally                                   | 51             | 54                    |
| Priority to brother/sister                       | 6              | 4                     |
| All to brother/sister                            | 1              | 2                     |
| Other  | 1              | 1                     |
| Base   | 749            | 774                   |

Findings from the qualitative study suggest that the strongest case for the entitlement of parents or siblings in cases of intestacy was in the absence of a spouse, partner or child. The overriding basis for this was that parents and siblings were considered next of kin. This view also drew on principles such as maintaining lineage and the importance of blood ties. The rights of parents and siblings were considered particularly strong by participants who held firm to a conviction that, other than a spouse, blood relations are the only people who should be able to inherit from a person's estate.

Table 6.1 shows that where there was no surviving spouse or children the quantitative survey found a general preference for the parent over the sibling. This is in line with the current intestacy rules which provide that siblings only inherit if there is no surviving parent. It is interesting, therefore, that in sharp contrast to this rule, around a half of respondents opted instead for equal sharing. The qualitative study provides some insight into the factors that may underpin support for these different options for distributing the estate. Where participants supported **sharing an estate equally between parents and siblings** this appeared to be based on two related factors: the nature of the relationships and fairness. The parental relationship and the sibling relationship were seen as equal in terms of closeness and importance in cases of intestacy. Consequently, it was considered right and fair for intestacy rules to give equal entitlement. An alternative perspective suggested it was fair to split the estate equally exactly to avoid subjective judgements about the nature of the relationships.

*'So if there were two parents and say two brothers and sisters, everyone should get a fair share of everything...because you don't know what they have felt about those people, it should be fair [equal] because you don't know those feelings.'*

(Female, 35-64, Single)

There was also support for **parents having priority over siblings** based on a range of factors. The nature of the relationship with a parent was considered important. The fact that parents had brought up the deceased meant that they were considered to have a closer bond than with siblings. This also encouraged some participants to suggest that there was more of a debt of gratitude owed to parents and that looking after parents in old age actually represented a responsibility of the deceased. Siblings, on the other hand, were considered more able to fend for themselves. A final factor related to lineage, with some participants suggesting that inheritance should go up or down and not across to siblings; that siblings would most likely ultimately inherit from parents anyway was also influential:

*'The responsibility lies to me to have made the will in the first place. If I haven't made the will, the precedent should apply; it goes to my parents. If my parents don't see fit to give it to my brother, for whatever reason, then so be it because obviously when my parents pop their clogs, my brother gets it.'*

(Male, 35-64, Cohabiting)

Finally, the view that **siblings should have priority over parents** was based on similar reasons to those given to support the prioritisation of parents, including relative need and blood ties. Prioritising siblings was backed by an assumption that parents would already be financially stable and that siblings would make better use of the inheritance. Equally, an alternative view on the lineage of inheritance provided support for siblings by suggesting that where inheritance cannot be passed down it should be passed across rather than up.

The quantitative survey also sought to measure preferences as between siblings and half-siblings:

*Suppose that a man dies without making a will. He is survived only by a **brother** and a **half-sister**. What do you think should happen to his property?*

Overall preferences were geared toward the full-sibling with around a half (53 per cent) favouring the brother (18 per cent wholly and 35 per cent in part) (Table 6.2). There was virtually no support for the half-sibling alone. However the largest group (45 per cent) actually favoured equal sharing.

**Table 6.2 Man survived by brother and half-sister**

|   |                              |
|---|------------------------------|
| <i>Base: all adults aged 16+ in England &amp; Wales</i> | <i>NatCen Omnibus Survey</i> |
|   | Total                        |
|   | %                            |
| All to brother  | 18                           |
| Priority to brother                                     | 35                           |
| Shared equally  | 45                           |
| Priority to half-sister                                 | 1                            |
| All to half-sister                                      | *                            |
| Other   | 1                            |
| <i>Base</i>   | <i>1,519</i>                 |

## Parents and siblings versus other competing interests

The qualitative study also identified attitudes towards the entitlement of parents and siblings when there was a surviving spouse, partner or child. In this situation, parents or siblings were always less of a priority and their entitlement was dependent upon a range of conditions. In relation to parents, one perspective suggested that they could be entitled to inherit in addition to a spouse or partner and children if they had been in some way dependent on the deceased. This view was based on a belief that it was the responsibility of the deceased to look after parents in old age as well as their own family. Interestingly, the idea that parents should be considered to have greater entitlement was raised when the surviving partner was a cohabitant rather than a spouse. Here, parents were considered important in determining what should happen to the estate on the basis that they were blood relatives and therefore would be more likely to protect the line of inheritance and, in some cases, provide for the children.

*'I think if the children are young, too young to make the decision then maybe the grandparents of the children would then be in that position to make those decisions.'*

(Male, 35-64, Cohabiting)

A scenario in which it was felt that parents *and* siblings could be included was where the estate was large enough to provide amply for the spouse and children and give something to parents or siblings. A caveat to this made clear that the family home should not pass to parents or siblings when there was a surviving spouse who needed to continue to occupy it. Support for parents or siblings inheriting where there was no surviving spouse or partner but there were surviving children was also on the basis that they would continue to meet the deceased's responsibility to care for their children.

A final perspective proposed that parents or siblings should never have an entitlement to inherit in cases of intestacy. This view was characterised by two key principles. The first emphasised the idea of inheritance being retained within the created family which meant that parents and siblings should not have entitlement where there was a surviving spouse and/or child. The second felt that parents and siblings will not have contributed to the estate of the deceased and therefore should not expect to inherit from it.

## 6.2 Other family relations

Participants in the qualitative study did consider the entitlement of other family relations in cases of intestacy. There was a view that entitlement in cases of intestacy should go no further than parents and siblings, with the argument being made that if a person thinks that others beyond this group of people should inherit then they should make a will. Alternatively, it was suggested that nieces, nephews, cousins and in some circumstances aunts and uncles could be considered where there were no closer relatives. Where there were closer relatives it was generally felt that other individuals would only be entitled following a successful challenge of the rules on the basis of more subjective indicators such as whether they had a strong emotional link with the deceased.

## 6.3 Non-family relations

### Carers and companions

The entitlement of people who had cared for the deceased was also raised during the qualitative interviews. Three distinct views were identified: that carers should be automatically entitled based on satisfying certain conditions; that carers could challenge intestacy rules in certain circumstances; and that carers should not be entitled to inherit. Under the current law, non-family relations are not included in the intestacy rules, and may only challenge for provision under the Inheritance (Provision for Family and Dependants) Act 1975 if they can show that they were being 'maintained' by the deceased immediately before the death. Alternatively, if the deceased had no relatives eligible under the intestacy rules, a carer could try to seek discretionary provision from the Crown: see Law Commission, (2009: paras 6.73-6.75).

Where carers were considered to have some entitlement it was on the basis of reciprocity. This was described as a desire for the intestacy rules to provide something in return for the generosity and time the carer had offered to the deceased. Entitlement was, however, based on meeting certain conditions. Entitlement for carers was often dependent on being a blood relative, whether a close relative or more distant. Here it was felt that having that link by blood was the main determining factor in a carer's entitlement to inherit; after this entitlement had been established, the caring role was largely used to determine what or how much of the estate they should receive. An alternative perspective saw other factors as overriding whether the carer was related to the deceased. The duration of care was considered important: if an individual had been caring for the deceased for more than two years then they should be treated as immediate family. A variation on this view suggested that where family had not been involved in the care for the deceased, the entitlement of friends or companions who had been carers should be greater than that of surviving family.

*'I think they [carer] should, yeah, because no one else has bothered with them 'av they. It's like this persons been there for 'em so I think they should...No, I don't think [it matters if not related] because they've been there for 'em and their relatives haven't.'*

(Female, 16-34, Single)

In practical terms it was also noted that if the carer was a companion living with the deceased, then their entitlement was seen to be greater as a result of their dependency on the home. Ultimately it was felt that they should not be made homeless but should have the right to live in the property until their death when the property could then pass to the rightful beneficiaries such as children.

Amongst some participants, there was a tension between wanting to provide for a carer in the rules and concern about how to determine a caring role. It was suggested, therefore, that someone who had provided care for the deceased should have the **opportunity to challenge the rules**. Overall,

where the entitlement of carers was based on challenge, there was sense that it was simply 'nice' to include those who have cared for one, which echoes the idea of reciprocity, but that the role was not significant enough to be included in the rules and so should be determined on a case-by-case basis. Where carers were members' of the deceased's close family it was felt that they could challenge the rules for a greater share of the estate but that the intestacy rules themselves should not distinguish entitlement on the basis of care.

A final perspective was that carers should **not be entitled in any circumstances**, for a number of reasons. First it was suggested that paid carers should never be entitled to inherit under intestacy laws due to concern that caring roles could be engineered in order for the carers to benefit from an estate. Equally, despite support for the sentiment to return the generosity of non-paid carers, it was felt that caring should be embarked on out of kindness or choice rather than in expectation of reward which could set a particular precedent:

*'You get some people that latch onto people...knowing they've got a few shillings in their pocket, so they'd be there looking for something, even though they come across as being kind, they could probably be there looking for something.'*

(Female, 16-34, Single)

A second important consideration was the significance of family with participants suggesting that carers should never have entitlement to inherit in the rules as the estate should always stay within the family, defined by either legal or blood ties. A final practical consideration that also lay behind this view was that ultimately the rules or procedures for challenges would find it too difficult to prove or disprove a caring relationship.

## Friends

Friends were considered less important than any other group when discussing entitlement in cases of intestacy. Very much reflecting the approach taken in the law, participants who emphasised the importance of family links did not consider friends as having any entitlement as they were outside the family. This was supported by the view that a legal link between the deceased and the beneficiary also increases entitlement. Where a friend may have played an important role in the life of the deceased or the deceased's wishes may have been for them to inherit, the importance of will writing was once again stressed: if the deceased had wanted anyone outside of the family to inherit they should make this clear in a will.

There was some consideration given to conditions in which friends could be entitled to inherit. This was largely in circumstances where there was no other family, with some participants expressing the wish that their estate went to a friend in preference to the government. The factors that would have to be taken into account to determine the entitlement of a friend in this scenario included relative need, and the length and nature of their friendship. However, there was no support for a set of rules attempting to account for this; rather it was felt that in this scenario, friends should at least have the right to be informed what would happen to the estate and potentially challenge this. In fact, this reflects the current legal position - as with a carer, in the absence of proof of dependency on the deceased, and if no one else would otherwise inherit, a friend could conceivably seek discretionary provision from the Crown: see Law Commission, (2009: paras 6.73-6.75).

## 6.4 Summary

- In the absence of a surviving spouse or children of the deceased, respondents generally favoured a parent (around 40 per cent) over a sibling (around 6 per cent). However, just

over half proposed equal sharing of the estate, based on the view that these relationships with the deceased were equally close and important.

- The qualitative study found that prioritising parents over siblings reflected a sense of responsibility, debt of gratitude or a view that the siblings would ultimately inherit from the parent in any event. Where siblings were prioritised, this was on the basis of their relative need and a preference to see an estate devolving across (if down was not possible) rather than up the generations.
- A surviving spouse or partner was strongly favoured over parents and siblings, although less so in the case of a partner. In the case of a surviving cohabitant/partner, a view was expressed amongst qualitative participants that parents might inherit in order to protect the family inheritance and provide better for the deceased's children, but this should not include the family home if it would deprive the partner of their occupation. Participants indicated that if the estate was large enough they might wish parents and siblings to be included.
- If there was no surviving spouse or partner, participants viewed the parents' or siblings' inheritance as conditional on their meeting the deceased's responsibility for the children. Those participants who did not favour parents or siblings ever inheriting regarded inheritance as limited to the deceased's 'created family', or considered that they had not contributed to building up the estate.
- Where participants considered that carers should receive an inheritance, this was only through a challenge based on reciprocity for their generosity and time. Their entitlement was also seen as conditional, either on being a blood relative of the deceased, the duration of the care, or their dependency (for example, not to lose the home they had shared with the deceased). An alternative view was that carers should not be entitled in any circumstances, either to ensure that caring is only embarked on out of kindness or choice rather than in expectation of reward, to confine the estate to the family, or to avoid the difficulty of determining what would amount to a caring relationship.
- Friends were considered less important than any other group when discussing entitlement in cases of intestacy, since they were outside the family. Any entitlement to inheritance was seen as limited to situations where the estate would otherwise go to the Crown, and to be established by challenge.



## 7 Sub-group analysis of the survey scenarios

This chapter provides a more detailed look at the results from each of the scenarios presented to respondents in the quantitative survey by comparing results among various different sub-groups, including those boosted in the second wave.

### 7.1 Sex

In general, there was little difference between men and women in the way they responded to each of the scenarios. One exception to this was a slight tendency for a higher proportion of women to opt for equal sharing compared with men. Although the differences were small and in most cases not statistically significant, this pattern was repeated across most of the scenarios.

In addition, in the scenarios involving second marriages, men were slightly more likely to favour the second spouse than women. These findings reflect the views indicated in relation to will-making (see Chapter 3, Section 3.2), where it was noted that men were more likely to say they would leave everything to their spouse or partner in their will while women were more likely to leave everything to their children.

### 7.2 Age

Those in different age groups responded in different ways to the scenarios. Looking, for example, at the first scenario - that of a married woman survived by her husband and her mother - although overall there was a clear preference for the spouse, this was not as strong among the youngest respondents, those aged 16 to 24. As is shown in Table 7.1, only 63 per cent of this group favoured the spouse compared with 83 per cent overall and they were more likely to opt for an equal sharing arrangement (33 per cent compared with 14 per cent of the sample as a whole). Indeed, those in the youngest age group were more inclined to opt for equal sharing throughout the scenarios.

| Table 7.1 Married woman survived by husband and mother by age |                   |          |          |          |          |          |                       |       |
|---|-------------------|----------|----------|----------|----------|----------|-----------------------|-------|
| Base: All adults aged 16+ in England & Wales                  |                   |          |          |          |          |          | NatCen Omnibus Survey |       |
|   | Age of respondent |          |          |          |          |          |                       | Total |
|   | 16 to 24          | 25 to 34 | 35 to 44 | 45 to 54 | 55 to 64 | 65 to 74 | 75+                   |       |
|   | %                 | %        | %        | %        | %        | %        | %                     |       |
| All to husband  | 33                | 56       | 64       | 74       | 77       | 72       | 69                    | 63    |
| Priority to husband   | 31                | 26       | 23       | 16       | 13       | 16       | 15                    | 21    |
| Shared equally  | 33                | 14       | 11       | 9        | 10       | 9        | 13                    | 14    |
| Priority to mother  | 2                 | 2        | *        | *        | 1        | 1        | *                     | 1     |
| All to mother   | 2                 | 1        | 1        | 0        | *        | 1        | 0                     | 1     |
| Other   | 0                 | 1        | 1        | *        | 0        | 1        | 2                     | 1     |
| Bases   | 133               | 260      | 292      | 249      | 247      | 208      | 144                   | 1,533 |

A clear pattern emerged with the proportion favouring the spouse increasing with age such that, among those aged 55 to 64, 89 per cent prioritised the husband (of whom 77 per cent said he

should be the sole beneficiary). The proportion then decreased slightly among the oldest age groups back to 84 per cent among those aged 75 or more.

The pattern was repeated across a number of the other scenarios with support for the spouse or partner generally increasing and peaking among those aged 55 to 64 before declining again among those in the oldest age groups. This pattern was also repeated for scenarios involving cohabitants, as is illustrated in Table 7.2, which shows responses for the scenario involving a cohabitation of ten years.

| Table 7.2 Man and partner together for ten years with no children |                   |          |          |          |          |          |                       |       |
|---|-------------------|----------|----------|----------|----------|----------|-----------------------|-------|
| Base: All adults aged 16+ in England & Wales                      |                   |          |          |          |          |          | NatCen Omnibus Survey |       |
|   | Age of respondent |          |          |          |          |          |                       | Total |
|   | 16 to 24          | 25 to 34 | 35 to 44 | 45 to 54 | 55 to 64 | 65 to 74 | 75+                   |       |
|   | %                 | %        | %        | %        | %        | %        | %                     |       |
| All to partner  | 27                | 43       | 53       | 68       | 67       | 61       | 50                    | 53    |
| Priority to partner   | 30                | 23       | 19       | 17       | 18       | 19       | 25                    | 21    |
| Shared equally  | 35                | 22       | 17       | 12       | 12       | 14       | 20                    | 19    |
| Priority to parents   | 5                 | 7        | 8        | 2        | 1        | 2        | 3                     | 4     |
| All to parents  | 3                 | 4        | 4        | 1        | 1        | 4        | 3                     | 3     |
| Bases   | 131               | 257      | 290      | 246      | 246      | 204      | 138                   | 1,512 |

In the scenarios involving second marriages, younger respondents were more likely to favour the children from the first or both marriages. For example in the scenario involving a man survived by his second wife and grown-up children from his first marriage, the proportion favouring the children from the first marriage fell from 33 per cent among those aged 16 to 24 down to just nine per cent of those aged 75 or older (Table 7.3).

| Table 7.3 Man survived by second wife and grown-up children from first marriage |                   |          |          |          |          |          |                       |       |
|---|-------------------|----------|----------|----------|----------|----------|-----------------------|-------|
| Base: All adults aged 16+ in England & Wales                                    |                   |          |          |          |          |          | NatCen Omnibus Survey |       |
|   | Age of respondent |          |          |          |          |          |                       | Total |
|   | 16 to 24          | 25 to 34 | 35 to 44 | 45 to 54 | 55 to 64 | 65 to 74 | 75+                   |       |
|   | %                 | %        | %        | %        | %        | %        | %                     |       |
| All to second wife  | 9                 | 10       | 12       | 18       | 24       | 20       | 17                    | 15    |
| Priority to second wife   | 22                | 24       | 35       | 39       | 31       | 33       | 36                    | 31    |
| Shared equally  | 37                | 43       | 35       | 29       | 32       | 38       | 36                    | 35    |
| Priority to children from first marriage  | 28                | 15       | 14       | 9        | 9        | 5        | 2                     | 13    |
| All to children from first marriage   | 5                 | 7        | 2        | 4        | 4        | 3        | 7                     | 5     |
| Other   | 0                 | *        | 1        | 3        | 0        | 2        | 2                     | 1     |
| Bases   | 132               | 258      | 294      | 248      | 247      | 209      | 141                   | 1,529 |

The observed differences by age may reflect generational issues e.g. successive cohorts having differing views to the previous ones, or alternatively a maturing of views over time. (Rowlingson and McKay 2005: 63), concluded that differences in attitudes towards inheritance in their study were mainly due to the ageing process but might have been partly generational. Unfortunately, it is not possible to identify which of these is relevant here using data from a cross-sectional survey such as this one.

### 7.3 Marital status

Married and widowed respondents favoured the spouse more strongly in the first three scenarios involving a spouse. For example in the first scenario, around three-quarters of married respondents said that all should go to the spouse, compared with just over a half of cohabitants and 40 per cent of single respondents (Table 7.4). Those who were single were more likely to opt for a sharing arrangement.

In general, across most of the scenarios, single respondents were least likely to favour the spouse or partner. They were however, comparatively more likely to favour the equal sharing options for many of the scenarios. This might reflect the fact that many single respondents have not (yet) had personal experience of marriage or cohabitation. It is also associated with the higher preference for equal sharing among younger respondents, who as a group are disproportionately more likely to be single.

| <b>Table 7.4 Married woman survived by husband and mother by marital status</b> |                                     |   |                 |        |         |          |                             |       |
|---|-------------------------------------|---|-----------------|--------|---------|----------|-----------------------------|-------|
| <i>Base: All adults aged 16+ in England &amp; Wales</i>                         |                                     |   |                 |        |         |          | NatCen<br>Omnibus<br>Survey |       |
|   | <b>Marital status of respondent</b> |   |                 |        |         |          |                             |       |
|   | Married –<br>first<br>marriage      | Married –<br>2 <sup>nd</sup> or<br>more | Cohab-<br>iting | Single | Widowed | Divorced | Separated                   | Total |
|   | %                                   | %                                       | %               | %      | %       | %        | %                           | %     |
| All to husband  | 72                                  | 77                                      | 55              | 40     | 75      | 63       | 65                          | 63    |
| Priority to husband   | 16                                  | 15                                      | 28              | 31     | 14      | 18       | 10                          | 21    |
| Shared equally  | 10                                  | 6                                       | 14              | 27     | 7       | 20       | 23                          | 14    |
| Priority to mother  | 1                                   | *                                       | 2               | 1      | 2       | 0        | 0                           | 1     |
| All to mother   | *                                   | 0                                       | 1               | 2      | 0       | 0        | 0                           | 1     |
| Other   | *                                   | 2                                       | 1               | *      | 2       | 0        | 3                           | 1     |
| Bases   | 515                                 | 187                                     | 237             | 287    | 132     | 125      | 47                          | 1,533 |

Those who were in their second (or subsequent) marriage were consistently more likely to favour 'all to the partner' in the scenarios involving a deceased spouse or cohabitant. As one might expect, this was most marked in the scenarios involving second marriages. Table 7.5 shows the results for the scenario involving a man being survived by his second wife plus children from both his marriages. Among those married for the second or subsequent time, 31 per cent opted for the entire estate to go to the second wife compared with 16 per cent among the sample as a whole.

**Table 7.5 Man survived by second wife and children from both marriages by marital status**

|  |                              |                                   |            |        |         |          |            |                       |
|--|------------------------------|-----------------------------------|------------|--------|---------|----------|------------|-----------------------|
| Base: All adults aged 16+ in England & Wales                                 |                              |                                   |            |        |         |          |            | NatCen Omnibus Survey |
|  | Marital status of respondent |                                   |            |        |         |          |            |                       |
|  | Married – first marriage     | Married – 2 <sup>nd</sup> or more | Cohab-ting | Single | Widowed | Divorced | Separ-ated | Total                 |
|  | %                            | %                                 | %          | %      | %       | %        | %          | %                     |
| All to second wife   | 18                           | 31                                | 13         | 8      | 15      | 16       | 7          | 16                    |
| Priority to second wife  | 48                           | 45                                | 46         | 37     | 46      | 43       | 63         | 45                    |
| Shared between 2 <sup>nd</sup> wife & children from 1 <sup>st</sup> marriage | 7                            | 6                                 | 4          | 8      | 9       | 5        | 2          | 7                     |
| Shared between 2 <sup>nd</sup> wife & children from 2 <sup>nd</sup> marriage | 3                            | 4                                 | 4          | 4      | 8       | 8        | 2          | 4                     |
| All to children from both marriages  | 15                           | 10                                | 22         | 30     | 10      | 21       | 19         | 19                    |
| Other  | 1                            | 1                                 | 1          | 1      | 1       | 1        | 5          | 1                     |
| Shared between 2 <sup>nd</sup> wife and all children                         | 7                            | 3                                 | 8          | 11     | 11      | 6        | 2          | 8                     |
| Bases  | 509                          | 184                               | 235        | 284    | 128     | 126      | 47         | 1,516                 |

In the scenarios involving married couples, cohabitants were slightly less likely to favour the spouse than married respondents (for example, as we have noted in relation to Table 7.4 above, 55 per cent of cohabitants said ‘all to husband’ compared with over 70 per cent of married respondents).

However, it is cohabitants’ responses to the scenarios involving cohabitation which merit particular attention. In all such scenarios, the cohabitants *themselves* favoured the partner/cohabitant less strongly than respondents who were married. Table 7.6 shows that 40 per cent of respondents in their first marriage (and 46 per cent of those in second or later marriages) favoured priority to the cohabitant. This compares with just 28 per cent among cohabitants.

**Table 7.6 Woman survived by partner of 25 years with grown-up children, by marital status**

| <i>Base: All adults aged 16+ in England &amp; Wales</i> |                              |                                    |             |            |            |            | <i>NatCen Omnibus Survey</i> |              |
|---|------------------------------|------------------------------------|-------------|------------|------------|------------|------------------------------|--------------|
|   | Marital status of respondent |                                    |             |            |            |            |                              |              |
|   | Married – first marriage     | Married – 2 <sup>nd</sup> or later | Cohab-iting | Single     | Widowed    | Divorced   | Separated                    | Total        |
|   | %                            | %                                  | %           | %          | %          | %          | %                            | %            |
| All to partner  | 40                           | 46                                 | 28          | 16         | 29         | 28         | 42                           | 32           |
| Priority to partner                                     | 14                           | 14                                 | 17          | 16         | 16         | 12         | 10                           | 15           |
| Shared equally  | 25                           | 18                                 | 30          | 34         | 26         | 32         | 23                           | 27           |
| Priority to grown-up children                           | 12                           | 13                                 | 15          | 21         | 10         | 13         | 11                           | 14           |
| All to grown-up children                                | 9                            | 8                                  | 9           | 11         | 17         | 15         | 11                           | 10           |
| Other   | *                            | *                                  | *           | 2          | 2          | 0          | 3                            | 1            |
| <b>Bases</b>  | <b>510</b>                   | <b>187</b>                         | <b>237</b>  | <b>286</b> | <b>133</b> | <b>127</b> | <b>47</b>                    | <b>1,530</b> |

Nonetheless, as Table 7.7 shows, responses by cohabitants to the scenarios involving cohabitations of differing durations, with no competing children, were very similar to those amongst the sample as a whole (shown in Figure 4.1) and indicate increasing support for the partner with increasing duration of the cohabitation.

**Table 7.7 Man and partner together for 2/5/10 years with no children**

| <i>Base: All cohabitants</i> |                        |            | <i>NatCen Omnibus Survey</i> |  |
|------------------------------|------------------------|------------|------------------------------|--|
|                              | Length of relationship |            |                              |  |
|                              | Two years              | Five years | Ten years                    |  |
|                              | %                      | %          | %                            |  |
| All to partner               | 34                     | 46         | 53                           |  |
| Priority to partner          | 15                     | 19         | 22                           |  |
| Shared equally               | 22                     | 24         | 18                           |  |
| Priority to parents          | 17                     | 8          | 4                            |  |
| All to parents               | 12                     | 3          | 2                            |  |
| <b>Bases</b>                 | <b>236</b>             | <b>235</b> | <b>235</b>                   |  |

## 7.4 Sibling status

Respondents who had at least one parent still living were asked whether they had any half-siblings or step-siblings, as this would suggest that one or both of their parents had re-partnered. It is not known whether those respondents who answered yes to that question were the product of the parent's first or a later relationship, nor whether the siblings at any time lived in the same household, both of which factors could have affected responses. Nonetheless, the presence of half- or step-siblings is of interest in that they potentially represent a competing interest in the event of the parent's death.

Those with half- or step-siblings were consistently less supportive of the spouse or cohabitant and more likely to favour the sharing options than other respondents. This may reflect the younger age profile of this group. In the scenarios involving a second marriage, those with half- or step-siblings held similar views to those without.

Table 7.8 shows responses to the scenario involving a man dying and leaving his brother and a half-sister. These are shown firstly for those with and without half- or step-siblings (the first two columns) and then for those with and without full siblings (the next two columns). It can be seen that the presence of either half/step or full siblings makes little difference to the proportion who said 'all to the brother'. As might be expected, those respondents who had both a parent and a half- or step-sibling were more likely to opt for equal sharing (54 per cent) and less in favour of priority to the full sibling than those without.

| <b>Table 7.8 Man survived by brother and half-sister, by sibling status</b> |  |                                       |                                  |                  |                              |
|---|--|---------------------------------------|----------------------------------|------------------|------------------------------|
| <i>Base: All adults aged 16+ in England &amp; Wales</i>                     |  |                                       |                                  |                  | <i>NatCen Omnibus Survey</i> |
|   | <b>Whether has half or step siblings</b> |                                       | <b>Whether has full siblings</b> |                  |                              |
|   | Parent alive & has half-or step sibling  | No parent or no half- or step-sibling | Has full siblings                | No full siblings | Total                        |
|   | %  | %                                     | %                                | %                | %                            |
| All to brother  | 18                                       | 18                                    | 18                               | 16               | 18                           |
| Priority to brother   | 25                                       | 37                                    | 33                               | 44               | 35                           |
| Shared equally  | 54                                       | 43                                    | 46                               | 37               | 45                           |
| Priority to half-sister   | 3  | 1                                     | 1                                | 2                | 1                            |
| All to half-sister  | 0  | *                                     | *                                | 0                | *                            |
| Other   | *  | 1                                     | 1                                | 1                | 1                            |
| <b>Bases</b>  | <b>254</b>                               | <b>1,265</b>                          | <b>1,283</b>                     | <b>236</b>       | <b>1,519</b>                 |

## 7.5 Parental status

A series of questions was included to establish whether respondents had parents who had re-partnered, since it might be assumed that their parent's new partner (and *their* family) might represent a competing interest. The questions enabled the identification of four groups:

- Those whose parents were still together
- Those whose parents had separated but had not re-partnered
- Those with at least one parent who had re-partnered
- Those whose parents had died or who had one surviving parent who had not re-partnered

The second of these groups was too small to allow any detailed analysis.

Those who had a parent who had re-partnered were generally less inclined toward the spouse and more likely to opt for the sharing options. This might reflect concerns about the potential competing interest from a surviving spouse (who is not their parent) in their own situations.

Perhaps the most relevant scenarios for these groups were the ones involving second marriages. In the scenario involving a second wife and grown-up children from the first marriage, those whose parents had re-partnered were only slightly more likely to prioritise the children from the first marriage, and the differences were quite small (six per cent versus three per cent of those whose parents were still together).

It is difficult to untangle the results for these groups since age is likely to be related to parental status. For example, the group who had at least one parent who had died and the other had not re-partnered tended to favour the second wife more strongly (19 per cent compared with 11 per cent of those whose parents were still together) (Table 7.9). However, this is likely to reflect the fact that this group was older on average than those whose parents were still together (older respondents were also more likely to favour the second wife, and the older respondents were, the more likely they were to have experienced the death of their parents, or indeed their re-partnering).

**Table 7.9 Man survived by second wife and grown-up children from first marriage by parental status**

| Base: All adults aged 16+ in England & Wales      |                               |                                 |                                  |  | NatCen<br>Omnibus<br>Survey |
|---|-------------------------------|---------------------------------|----------------------------------|--|-----------------------------|
|   | Parental status of respondent |                                 |                                  |  |                             |
|   | Still together                | Separated<br>(not re-partnered) | One/both<br>parents re-partnered | One/both<br>parents died<br>(other not re-partnered) | Total                       |
| All to second wife                                | 11                            | -                               | 14                               | 19   | 15                          |
| Priority to second wife                           | 32                            | -                               | 28                               | 31   | 31                          |
| Shared equally                                    | 34                            | -                               | 36                               | 36   | 35                          |
| Priority to grown-up children from first marriage | 19                            | -                               | 15                               | 8  | 13                          |
| All to grown-up children from first marriage      | 3                             | -                               | 6                                | 5  | 5                           |
| Other   | 1                             | -                               | 1                                | 1  | 1                           |
|   |                               |                                 |                                  |  |                             |
| <b>Bases</b>                                      | <b>363</b>                    | <b>33</b>                       | <b>289</b>                       | <b>834</b>   | <b>1,529</b>                |

## 7.6 Respondents with children

### Those with children of their own

The questionnaire enabled identification of respondents who themselves had children, whether they were living within the same household or had left home (see Appendix A). Across most of the scenarios, those with children were consistently more likely to favour the spouse or partner. These included the scenarios involving a surviving spouse or partner and children. For example, in the scenario where the competing interests were represented by a wife and young children, 54 per cent of respondents with children opted for 'All to wife', compared with 41 per cent of those without children.



## Those with children from previous relationships

The questionnaire also recorded whether respondents or their partners (whether married, in a civil partnership or cohabiting) had any children from any previous relationships (see Appendix A). In general, those with partners who had children from previous relationships were slightly more likely to favour the spouse or partner.

However, the views of this group are particularly interesting in relation to the scenarios involving second marriages (where there were children from the first marriage). Those with their own children from previous relationships were no more likely to favour either the second spouse or children from either the first or second marriages than those without. However, perhaps reflecting their own situation, those with partners who had children from a previous relationship were slightly more likely to favour the second spouse and showed a slightly lower preference toward the children from the first marriage (Table 7.10).

**Table 7.10 Man survived by second wife and children from both marriages by whether have children from previous relationship**

| Base: All adults aged 16+ in England & Wales               |  |       |   |       | NatCen Omnibus Survey |
|--|--|-------|---|-------|-----------------------|
|  | Whether respondent has children from previous relationship |       | Whether partner has children from previous relationship |       |                       |
|  | Yes  | No    | Yes   | No    | Total                 |
|  | %  | %     | %   | %     | %                     |
| All to second wife   | 20   | 15    | 28  | 14    | 16                    |
| Priority to second wife                                    | 43   | 45    | 43  | 45    | 45                    |
| Shared between second wife & children from first marriage  | 6  | 7     | 3   | 7     | 7                     |
| Shared between second wife & children from second marriage | 6  | 4     | 3   | 4     | 4                     |
| All to children from both marriages                        | 18   | 19    | 15  | 19    | 19                    |
| Other  | 2  | 1     | 2   | 1     | 1                     |
| Shared between second wife and all children                | 5  | 8     | 5   | 8     | 8                     |
| Bases  | 456  | 1,060 | 290   | 1,226 | 1,516                 |

## 7.7 Size of estate

There was some variation in responses to the scenarios depending on the size of estate. The general pattern was for the group with the smallest level of assets to stand out from all others by displaying weaker preferences for the spouse or partner (and stronger preferences for the sharing options). This is illustrated in Table 7.11, which shows the responses to the scenario involving a married man survived by his wife and two young children, according to the total value of the respondent's assets. Around two-thirds (64 per cent) of those with smaller estates – those with less than £10,000 – favoured the spouse but this increased to around three-quarters or more in the other groups. The exception to this pattern was in those scenarios involving a second spouse where there was less variation by size of estate.

**Table 7.11 Married man survived by wife and two young children by wealth**

|  |  |                  |                   |                   |                    |                             |
|--|--|------------------|-------------------|-------------------|--------------------|-----------------------------|
| Base: All adults aged 16+ in England & Wales |  |                  |                   |                   |                    | NatCen<br>Omnibus<br>Survey |
|  | Total financial value of Respondent's assets |                  |                   |                   |                    |                             |
|  | Under<br>£10k                                | £10k to<br>£100k | £100k to<br>£200k | £200k to<br>£500k | More than<br>£500k | Total                       |
|  | %  | %                | %                 | %                 | %                  | %                           |
| All to wife                                  | 35   | 53               | 58                | 57                | 52                 | 50                          |
| Priority to wife                             | 29   | 23               | 25                | 26                | 30                 | 26                          |
| Shared equally                               | 25   | 18               | 12                | 10                | 10                 | 17                          |
| Priority to young children                   | 8  | 4                | 4                 | 5                 | 6                  | 5                           |
| All to young children                        | 3  | 2                | *                 | 1                 | 2                  | 2                           |
| Other  | 0  | *                | 0                 | 0                 | 0                  | *                           |
| Bases  | 380  | 342              | 312               | 280               | 92                 | 1,538                       |

## 7.8 The presence of a will

In all of the scenarios involving spouses and cohabitants, those who had made a will were more likely to say that all of the estate should go to the spouse or partner. For example, in the very first scenario involving a married woman survived by her mother and her husband, 75 per cent of those who had made a will said that everything should go to the husband compared with 55 per cent of those without a will. This might simply reflect the differing socio-demographic profiles of those with and without a will (see section 3.1) but could also reflect the possibility that those with wills had received legal advice about benefiting their spouses unconditionally (see for example Masson, 1994: 367).

In the scenarios involving second spouses, those with a will were slightly more likely to favour the second spouse. For example, 70 per cent of those with a will said 'all' or 'priority to' the second wife in the scenario involving children from both marriages compared with 56 per cent of those without a will.

## 7.9 Multivariate analysis

This chapter has shown how the responses to the different scenarios have varied among different sub-groups. Thus far, each of the separate characteristics has been considered in isolation. However, in practice, many of the different characteristics that have been considered are themselves inter-related. For example, younger respondents are less likely to be married and less likely to have a will. Differing responses to the scenarios observed among this group might therefore purely be a result of differing marital status, rather than because of their age *per se*.

Multivariate analyses (specifically logistic regressions) were therefore conducted in an attempt to identify the relative importance of each of the different characteristics in predicting responses to the scenarios. The advantage of this approach over simple cross-tabular comparisons of different groups is that it helps assess the *relative* importance of each of the different characteristics while taking account of their relationship with each other. For example, it can be used to establish whether the variations in responses to the scenarios observed among different age groups are due to age itself or whether they actually stem from the fact that responses also varied by marital status, and/or that age and marital status are themselves inter-related.

The analysis presents some interesting findings. Logistic regression models were fitted to each of the scenarios. The most immediate finding that emerged was that in the majority of the scenarios, marital status was independently related to views on what should happen in each of the scenarios. Specifically, married respondents were consistently the most likely to favour the spouse or partner in most of the scenarios, while single respondents were the least likely to do so. Furthermore, in the scenarios involving second marriages, those in second or subsequent marriages stood out as the most likely to favour the second spouse.

The picture for age is less clear. Of the first three scenarios involving a married couple, it is interesting that age emerged as independently related to views in only one of them. Thus, although views did vary widely between the different age groups, this is most likely to be due to other reasons, rather than age itself (most notably, marital status, as noted above). However, in the three scenarios in which cohabitants were competing with parents, age did emerge as independently related, with those in younger age groups less likely to favour the partner and those aged 45 to 64 most likely to do so. It is interesting that age was *not* independently related in the two scenarios where the cohabitants were competing with children. It is difficult to explain these findings but it might be speculated that, given that older respondents were generally more likely to favour the partner in the scenarios involving parents, the (greater) age of their own parents may have been a factor influencing in their responses. It may also be noted that younger respondents were less likely to favour the partner in the study conducted by Williams et al (2008: 517).

The financial value of respondents' assets and the presence of a will emerged as independently related to views on what should happen in only a minority of the scenarios (specifically, those involving a man survived by his wife and grown-up children, a woman survived by her partner and grown-up children and a man survived by his partner of less than two years and their baby).

Whether or not respondents had children did not emerge as independently related to views on intestacy (with just one exception: the scenario involving a man survived by a second wife and young children from the first marriage). This means that the differences observed in section 7.7 above (where it was noted that those with children were more likely to favour the spouse or partner) are likely to be due to other factors, probably marital status.

## 7.10 Summary

- There was little difference between men and women in the way they responded to the scenarios.
- Support for the spouse or partner increased with the age of the respondent, before falling back amongst the oldest age groups. By contrast, support for equal sharing, or for children, was stronger amongst younger respondents.
- In general, married and widowed respondents were more likely, and single respondents less likely, to favour the spouse or partner. Single respondents were comparatively more likely to favour the equal sharing options. Those in a second (or subsequent) marriage were more likely to favour the spouse or partner receiving the whole estate.
- In scenarios involving cohabitants, cohabiting respondents themselves favoured the partner/cohabitant less strongly than respondents who were married, but their responses to the scenarios involving cohabitations of differing durations, were very similar to those

amongst the sample as a whole and showed increasing support for cohabitants of longer durations.

- Respondents with half- or step-siblings were more likely to favour the sharing options.
- Those who had a parent who had re-partnered were generally less inclined toward the spouse and also more likely to opt for the sharing options. However, in the scenario involving a second wife and grown-up children from the first marriage, those whose parents had re-partnered were only slightly more likely to prioritise the children from the first marriage.
- In general, respondents with children of their own were consistently more likely to favour the spouse or partner.
- Respondents with children of their own from previous relationships were no more likely to favour either the second spouse or children from either the first or second marriages than those without. However, those with partners who had children from a previous relationship were slightly more likely to favour the spouse or partner, and showed a slightly lower preference toward children from a first marriage.
- Respondents with the lowest level of assets showed weaker preferences for the spouse or partner and greater preferences for the sharing options..
- Respondents who had made a will were more likely than those without a will to say that all of the estate should go to the spouse or partner and in the scenarios involving second spouses, that all or priority should go to that spouse.
- When multivariate analyses were conducted, marital status emerged as the factor most frequently independently related to responses, with married respondents consistently most likely to favour the spouse or partner, and single respondents least likely to do so. Thus, the differences apparently related to factors such as age, financial wealth, whether or not the respondent has a will and the presence of children were mainly due to marital status.

# 8 Conclusions

## 8.1 Introduction

As was explained in Chapter 1, the aims of this study were twofold. First, the study sought to provide up to date information to the Law Commission on public attitudes to how the law should handle inheritance issues in order to assist them in producing law reform proposals. Secondly, the study aimed to discover how attitudes might vary between different segments of the population, such as those who have had children from more than one relationship, or who are cohabiting, as to how they define their 'family' and kin. In seeking to meet these aims, the research builds upon a body of work which includes similar social attitude surveys to this one (Brooker, 2007; Rowlingson and McKay, 2005; Public Attitude Surveys, 1989) and in-depth studies of views on inheritance, and views on families. In particular, the study has drawn on the insights of Finch and her colleagues (1996, 2000) on the relationship between inheritance and kinship. As they note (Finch et al, 2000:162)

*'When people make decisions about whether and to whom to pass their property when they die, or what to do with something they have inherited, they are in the business of constituting kinship, not just reflecting it.'*

Clearly, in a system based on freedom of testation, as exists in England and Wales, where, provided a valid will is made, a person can determine how all of their property is distributed after their death, whom people choose to benefit in their wills can tell us a great deal about whom they regard as their 'significant others' and literally what value they place on such relationships. We therefore sought to obtain information about our respondents' own will-making behaviour and choice of beneficiaries. Previous research shows that many people do not make wills and the intestacy rules therefore assume significance in setting out how the state should allocate their estate for them. Insofar as the intestacy rules are intended to reflect the presumed wishes of the deceased or to 'write a will for the intestate' (Law Commission, 2009: 10), it is important to ensure that the law is in line with public attitudes, since it will determine how their property is transmitted and what provision is made for those whom they deem significant. It was crucial, therefore, to obtain respondents' views on whom they would benefit if they did one day make a will and, more crucially, whom they thought should benefit if a person dies intestate.

## 8.2 Will-making

In line with previous studies (Brooker, 2007; Rowlingson and McKay, 2005), just over one-third of our survey respondents said that they had a formal will. The proportion varied significantly by age, as one would expect, ranging from only 6 per cent of those under 25, to over 80 per cent of people who were aged 75 or above. Whilst death rates are of course higher amongst the elderly, the possibility of an earlier death means that many people will die without leaving a will setting out their intentions as to their estate. Moreover, will-making was less common amongst cohabitants (only 13 per cent of whom had made a will), who constitute a fast-increasing proportion of the population (Smallwood and Wilson, 2007), yet many of whom may not appreciate that they are currently excluded from the intestacy rules.

Consistent with another study (Morrell et al, 2009), participants in the qualitative study strongly favoured maintaining the principle of freedom of testation, but varied as to how far they considered a valid will should be subject to challenge. One view expressed in relation to the limitations of how the intestacy rules might operate was to state that the deceased could have, or should have, made

a will. Following on from this, it was also felt that making a will enables a person to exercise their autonomy and control the fate of their wealth. Influences on determining **how** property should be left included the idea of passing it down the family line, but meeting one's responsibilities to one's dependants was also regarded as important, with a concern to preserve the stability of the family unit left behind.

When it came to identifying **who** had been left assets under their will, or who would be included if the respondent were to make a will, respondents took a rather narrow view, based more on a nuclear family model, than on an idea of 'kin' in the broader sense of a network of relationships based on blood or affinity. The family unit was very often seen as the deceased's (or respondent's) own 'created' family. This echoes a conclusion drawn by Finch and her colleagues (2000: 167) that 'individuals expect to "create" a family rather than to "join" one'. Thus, nearly three-quarters of survey respondents who had made a will said they had included their children and two thirds had included their spouse or partner. There was a similar pattern amongst those who had not yet made a will, but with a higher proportion mentioning parents and siblings (reflecting their age and marital status). Only 12 per cent of those who had made a will had included grandchildren, 7 per cent nieces or nephews, 3 per cent step-children and only 2 per cent cousins.

Slightly over half of survey respondents who had made a will (and three-quarters of the respondents who were married) said that they had left everything to their spouse or partner or, in the event of the spouse or partner's prior death, to their children. This may reflect legal advice, which currently favours such an approach for minimising tax liability and the risk of the spouse losing the home and maximising simplicity and clarity of intention. Participants in the qualitative interviews suggested that leaving their entire estate to their spouse or partner reflected the nature of the relationship with the spouse, in terms of emotional closeness, the creation of a shared life, and their wish to meet their sense of responsibility to maintain the spouse/partner as far as possible in their current lifestyle.

The inclusion of children in a will reflected a wish to see one's estate pass down the blood-line, an important factor influencing views on the entitlement of a range of other potential beneficiaries. For example, where grandchildren were included, participants suggested that this might be important where a child had divorced and they wished to ensure that property remained within the family line. Participants took the view that the fair allocation was to treat all one's children equally, regardless of their individual circumstances, reflecting the equal love that a person feels for their children.

Perhaps of particular interest is the finding that only 5 per cent of survey respondents, whether or not they had made a will, mentioned friends as potential beneficiaries, and interview participants who did so were younger and less likely to have their own 'created' family. They stressed their emotional closeness with such beneficiaries and suggested leaving personal belongings to friends as something to remember them by rather than money or other assets. These findings suggest that, for inheritance purposes at least, people view 'family' members as the appropriate group to receive one's property, that membership of this group is quite tightly defined, and that friends are not prioritised over family but may be considered entitled in the absence of a created family.

### 8.3 Attitudes to intestacy

As the Law Commission (2009: paras 2.2-2.10) explain in their Consultation Paper, the current intestacy rules largely date from the Administration of Estates Act 1925, and the class of beneficiaries under the rules has been only minimally adjusted since then (to include children born outside marriage and civil partners), although the 'statutory legacy' which accrues to a surviving spouse or civil partner has intermittently been increased to take account of inflation, most recently



in 2009. 'Family provision' for those who consider that inadequate provision has been made for them, either by will or through the operation of the intestacy rules, has been expanded somewhat more significantly, to include cohabitants of at least two years standing. Otherwise, the rules on inheritance have taken very little cognisance of the enormous rate of social change which has occurred during the past century.

Increased economic affluence (most particularly through high rates of home ownership) and a shift towards ready divorce, cohabitation and the construction of multiple and blended families, might be expected to have affected people's views on how property should be allocated on a death, and who should receive it. However, in considering the findings from the study and the conclusions that may be drawn from them, it is important to bear in mind that participants did not always offer consistent views across the range of issues presented to them; in particular, what they considered as appropriate for inclusion in their own will or in relation to their own individual circumstances was not always internally logical and consistent and did not necessarily 'read across' to their views on how the intestacy rules should operate in general. A range of perspectives recognised that it is not possible to provide a set of rules which must apply to all cases, which can at the same time offer the flexibility to meet the individual situation affecting that particular family. Indeed, one view was that for this very reason there should not be a 'set of rules' at all – or that it was up to people to make a will to cater for their own circumstances. An important distinction was drawn between objective factors which can be catered for by the law (such as the nature of the legal or blood relationship between the deceased and the beneficiary) and subjective factors (such as emotional closeness) which only the individual will-maker can assess and take into consideration. This suggests that it may be unwise to rely too much upon findings based on wills as a model for how the intestacy rules should work since these will include the subjective issues of importance to the testator when their last will was made – and may also run counter to what had been their views at previous stages in their lives. From this perspective, the opinions of members of the public asked to evaluate the issue both from their own individual experience and circumstances, and on a more objective level for others, may be a more reliable indicator of what might be acceptable when it comes to any policy changes.

## Primacy of spouses

In determining how to prioritise different types of potential beneficiary under the intestacy rules, the survey respondents, consistent with their views on including spouses in their wills, showed strong support for the surviving spouse. In assessing the various scenarios, the majority of survey respondents favoured the surviving spouse receiving all of an intestate's estate (63 per cent). This was not as strong where the deceased had children, falling to 51 per cent where there were adult children, and 50 per cent, where the children were young. Overall, however, around four-fifths of respondents would give the spouse all or priority over other beneficiaries in each of these scenarios, reflecting the current intestacy rules (save to the extent that, as we discuss below, there was strong support for children receiving *something* under the rules). This prioritising of a spouse reflects a companionate and intimate view of the marriage tie, as expressed by the participants in the qualitative interviews, which has become prevalent in western society since the turn of the last century and which produced, in inheritance regimes across Europe, a trend away from an exclusive concern with the blood-tie and lineage towards recognition of the mutual obligations and mutual contributions of the spouse (Castelain et al, 2009). Indeed, the 1925 intestacy rules shifted the law towards the spouse as the primary or sole beneficiary. As the Law Commission explain (2009: paras 2.3, 3.11), this meant that in most cases of intestacy, the surviving spouse would inherit the whole estate. This position has pertained to the present day, with 90 per cent of intestate estates valued below the lower statutory legacy (applicable to a surviving spouse where there are children)



and 98 per cent below the higher threshold (applicable where there are no children or other descendants of the deceased).

Interestingly, respondents were less supportive of civil partners, which may reflect a lack of understanding of what this new legal institution actually means or genuinely less support for recognition of same-sex relationships. Clearly, the law cannot distinguish between the two, and there may be both an age and generational effect operating on responses.

The position was different in the scenarios involving **second** spouses where the deceased's children were potentially competing beneficiaries. Respondents were not asked for their views purely in relation to a second spouse's entitlement as compared with that of a first spouse; the research was more concerned to explore the issue of how to treat a second spouse where the deceased had left children from a former relationship. As noted previously, this was a key problem for the Law Commission in their last review of the law in 1989, when their recommendation that a spouse should always receive the whole estate on intestacy was not accepted on the basis that it might prejudice such children. In line with that criticism, respondents showed much less support for the second spouse in that kind of scenario. Only 15 per cent favoured the spouse receiving everything where the deceased had left grown-up children; only 11 per cent where the children were under 10; and well under a half would give that spouse priority. The qualitative study suggested that this limited support reflected a sense that a second spouse would not necessarily have the interests of the deceased's children sufficiently at heart and so could not be trusted to provide for them in every case: provision should therefore be made for them under the rules to preserve their entitlement. Perhaps not surprisingly, survey respondents who were themselves in a second or subsequent marriage were more supportive of the second spouse: 29 per cent of these, as compared with 17 per cent of respondents in their first marriage, favoured the whole estate going to the spouse where there were adult children of the deceased, but even this greater support contrasts with the finding that, in the case of a *first* spouse and competing adult children, 67 per cent of such respondents would give the whole estate to that spouse.

Interestingly, the survey also found that a higher proportion of respondents would favour a second wife where the deceased left children from both relationships, and that the whole estate should be divided equally between all the children. In this situation, our interview participants suggested that a second spouse might provide for both sets of children through their inheritance of the whole estate perhaps, therefore, being seen as more trustworthy than a spouse who has not had children with the deceased but, on the other hand, that the importance of the link between the deceased and *all* his children meant all should be treated the same, a point discussed further below.

## Support for cohabitants

Whilst primacy for the spouse reflects the current rules, public attitudes parted company with the present law in relation to the position of cohabitants. While there was a view amongst qualitative participants that if a deceased person wanted to ensure provision for a cohabiting partner, he or she should make a will, there was very substantial support amongst the survey respondents for the cohabitant being included in the intestacy rules, a finding which is in line with previous surveys (Barlow, 2008; Williams et al, 2009). There was strong support in all the scenarios for the cohabitant receiving half or more of the estate, ranging from 62 per cent in the case of a two-year cohabitation where the couple had a baby, to 93 per cent where the cohabitation had lasted 10 years and there were no children. During the qualitative interviews, the presence of children and the duration of the relationship were highlighted as significant factors influencing attitudes, serving as evidence of the parties' commitment to each other and interdependency, emphasising, as for spouses, the closeness of the relationship. However interview participants varied significantly in the

length of time they suggested was required to demonstrate such commitment and inter-dependency, ranging from two to twenty years.

Interestingly, survey respondents who were themselves in cohabiting relationships showed slightly less support for the cohabitant receiving all the estate than married respondents. For example, in the scenario concerning a 25-year cohabitation and adult children of the relationship, only 45 per cent of cohabiting respondents would give all of the estate or priority to the cohabiting partner, compared with 60 per cent of respondents in a second (or subsequent) marriage, and 54 per cent of those in their first marriage. Views were almost as far apart in relation to the shortest cohabitation with no children, where only 49 per cent of cohabitants would give all the estate or priority to the partner, compared with 61 per cent of those in a second marriage and 57 per cent of those in their first marriage. These findings are hard to explain. It is possible that the difference was due to those respondents in a marriage considering a cohabiting partner more trustworthy, i.e. more likely to ensure that children would be 'remembered' or protected in the future, than those in a cohabiting relationship. Discrepancy between views in relation to scenarios reflecting one's own situation and those on which one has no direct experience cropped up elsewhere in the study, and we have noted above that participants were not always consistent in their responses.

Nonetheless, the overall result and one of the strongest messages emerging from the study, was that there is very considerable support for extending the intestacy laws to include cohabitants in some way.

## Recognition of children

We have already noted that there was considerable support for the view that a person's children should have their interests safeguarded by the intestacy rules. This was strongest, as might be expected in the light of the findings on the primacy given to spouses discussed above, where there was no surviving spouse or partner, with factors such as maintaining lineage, ensuring support for dependent children, and a wish to see property go down rather than back up the generations, assuming priority over possible obligations to aged parents.

Where children were in competition with a surviving spouse or partner, although the latter was favoured over the children, there was still significant support for the children sharing in the estate. Chapter 5 illustrated that the proportion of survey respondents taking this view ranged from 48 per cent, in the scenario concerning a surviving spouse and adult children, to 74 per cent in the scenario involving a short cohabitation and baby. Such findings help illuminate further the strength of the criticism made of the Law Commission's 1989 recommendation to leave everything to the surviving spouse. The qualitative study found that concern to ensure that, in particular, young children were protected and provided for, was a strong motivation for wishing the intestacy rules to take account of their needs in some way, but also that adult children should be 'recognised' on the basis of their blood-tie and the emotional relationship they had with the deceased.

There were varied views on the best mechanism by which this should be achieved. One approach viewed the children as being best provided for *via* provision made for the spouse/partner, who would use the estate to care for them during their dependency. Following this view, the spouse/partner might also be expected to pass any remainder on to the children at their own death and thus maintain the blood-tie and bond between the deceased and children over the long term. An alternative perspective was less trustful of the surviving spouse; this distrust was greater in relation to second spouses (step-parents of the deceased's children) and cohabitants, perhaps reflecting a more ambivalent view of the strength of the relationship between the adult partners. In this case, participants advocated specific provision being made for the children (sometimes by way

of trust, sometimes by direct payment), both to protect them during their dependency and to ensure fair recognition of the blood-tie and bond with the deceased.

In their Consultation Paper, the Law Commission (2009: paras 3.99-3.111) discuss 'conduit theory'. This posits that:

*'a surviving spouse of a person who dies intestate is likely, on his or her death, to pass the unconsumed part of the estate to any children he or she had with the deceased. The surviving spouse is therefore only a reliable "conduit" for the deceased's wealth, ensuring that any surplus wealth is ultimately passed down to the next generation, if he or she is also the parent of those children. Conversely, a step-parent is seen as a less reliable conduit.'* (Law Commission, 2009: para 3.100)

The survey data suggest that there was a general concern across all groups of respondents to ensure the support and protection of *dependent* children. There was, for example, little difference between survey respondents who were themselves step-parents, and others, in relation to the scenario with young children from the former marriage (the only noteworthy divergence being that 31 per cent of step-parents would favour priority to the second spouse, compared with 27 per cent of the whole sample). However, step-parents were more likely to favour a second spouse receiving the whole estate where there were *adult* children of the deceased's former marriage (26 per cent favoured all to the spouse, compared with 20 per cent of respondents who had children from a previous relationship, and 15 per cent of the whole sample). There does, therefore, appear to be evidence to support conduit theory, which helps explain the apparent inconsistency between a preference for the surviving spouse inheriting all or most of the estate (especially if this will enable them to remain in the family home) and a wish to provide for the children - a combination which may be difficult to achieve in practice.

## Exclusion of non-family members

Leaving aside provision for the surviving spouse or partner, the blood-tie appears to remain a strong factor influencing people's views on eligibility to share in an estate. This was expressed in two ways. On the one hand, ideas about family lineage and the tie between the deceased and children (and further descendants in some cases) informed people's views about provision for children and a preference for inheritance to move down rather than up or across the generations. Of greater significance, however, was the view that non-family members would not normally inherit under a will and should not inherit via intestacy rules. As noted previously, only 5 per cent of respondents said they had included (or would include) friends in their wills; only 7 per cent had left money to a charity and only 4 per cent of those yet to make a will said they would do so.

One might, however, have expected a different attitude towards carers, who often assume a quasi-familial role. As discussed in Chapter 6, the qualitative interviews addressed whether participants felt that someone who had cared for an elderly person, perhaps moving in to look after them, should be provided for on intestacy. There was no recognition of such a person having any entitlement *by virtue of their caring role*, as distinct from being a blood relative who had taken this on, or having become dependent (perhaps for their home) on the deceased in consequence. In the case of a blood relative, it was felt that the share of the estate they would otherwise receive under the intestacy rules might be increased, though only after challenge, to reflect their greater contribution to the wellbeing of the deceased person. In the case of a non-relative, their dependency might also be recognised through a challenge to the allocation that the intestacy rules would produce, but not otherwise. Underlying such views was both a strong sense that inheritance should remain within the lineage of the family, and a degree of suspicion and cynicism about the

motives of carers. It was felt that caring is or should be a voluntary activity, willingly assumed without expectation of reward. A child or blood relative's share should not, therefore, necessarily be increased because of assuming such a role, since other relatives might not have been in a position to take it on. And it would be positively risky in the case of non-family members to set a precedent whereby it was seen that taking care of a person would lead to a share of their estate.

## Practicalities

Survey respondents and interview participants were not expected to be able to come up with logical sequences of rules and principles which would take account of the practical complexities that occur in real life. When facts in the scenarios or the vignettes were altered, or participants probed for further details and consideration of alternative situations, it was not surprising that they found it difficult to remain consistent or to think through the implications of their views. This relative lack of 'reality testing' means that, of course, one cannot seek to derive a detailed set of proposals for law reform from the findings we have presented – they can only provide us with a general sense of how people think and what is significant to them. Thus, it may well be that, in trying to ensure inclusion of both spouses and children, within the intestacy rules, for example, respondents failed to recognise the low value of most estates and the impossibility of providing both security for the spouse and meaningful provision for the children. Nor did researchers seek to explain to participants the implications of a property, such as the family home, being jointly owned by both spouses (as is commonly the case), so that it would be excluded from the estate and pass directly to the surviving spouse.

In the qualitative interviews, however, participants were given the opportunity at least to pause to reflect upon the possibility that a person *might* lose their home in some circumstances, and this did produce a revision of views in some cases. Overall, there was a recognition that a person should be able to remain in their home for the rest of their life (in the case of an elderly person such as in the second variant of Vignette 1) or, in a situation where a participant felt that an estate should pass to children rather than a spouse or partner, to enable the adult parent to continue to look after those children during their dependency. However, such concessions viewed the person remaining in the home as doing so either because of dependency or to meet the needs of the deceased's children and not because of an entitlement in their own right. A right of *occupation*, rather than *ownership*, seemed more in keeping with such views.

## 8.4 The survival of the nuclear family model in changing times

In sharing the view of Finch et al (2000) that people constitute their kin from the decisions they make about how to pass on their property on their death, the findings from our study suggest that, far from the assumption that the 'family', and particularly the nuclear family, is in terminal decline, people still view their most important relationships as centred on a narrow nuclear family model consisting of one's spouse or partner, one's children and grandchildren, and one's parents and siblings. This is not to say that such a model also assumes a 'created family' based on a permanent relationship through an unbroken marriage between heterosexuals. The survey responses and qualitative interviews illustrated that shifts in social attitudes and cultural practices, such as re-partnering, cohabitation and same-sex relationships, have not displaced the traditional nuclear family as the *model* or template in which such family life takes place. In the primacy given to a spouse (and high level of support for cohabitants) and the importance placed on recognising one's children, they underscored how central is the concept of a family rooted in partnership and parenthood. The laws on inheritance, particularly those on intestacy, have to reflect the importance of both relationships in shaping people's lives and identities. The findings of this study suggest that, on the whole, these laws have made a rather good job of doing so for many years. They can

continue to do so if they can be amended to take account of the more fluid, less formal ways in which people continue to build their families and family lives.

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# Appendix A Characteristics of the survey sample

## Age & sex

In order to ensure that the sample of respondents was representative it was weighted in order to ensure that it matched that of the population in terms of age and sex (see Appendix B). The profile of respondents is summarised in Table A1 below.

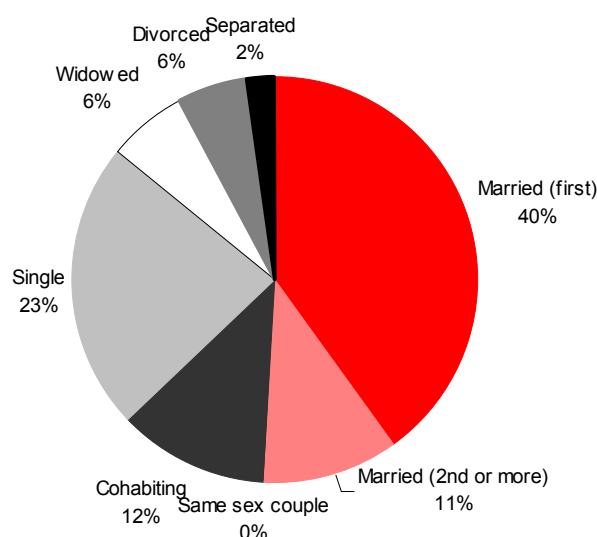
| Table A1 Age & sex profile                   |     |                       |
|--|-----|-----------------------|
| Base: All adults aged 16+ in England & Wales |     | NatCen Omnibus Survey |
|  | Sex |                       |
|  | Men | Women                 |
|  | %   | %                     |
| 16 to 24                                     | 8   | 7                     |
| 25 to 34                                     | 8   | 8                     |
| 35 to 44                                     | 9   | 9                     |
| 45 to 54                                     | 8   | 8                     |
| 55 to 64                                     | 7   | 8                     |
| 65 to 74                                     | 5   | 5                     |
| 75 or more                                   | 4   | 5                     |
| Base   | 702 | 854                   |

## Marital status and cohabitation

Around one half (51 per cent) of respondents were married and living with their spouse (see Fig. A1). A further 12 per cent were living with their partner (cohabiting). Around a quarter (23 per cent) were single, six per cent were widowed, six per cent divorced and two per cent separated.

Figure A1 Marital status

Base: All respondents





Respondents were asked whether they had ever been married before, regardless of their current situation.

Around a fifth of those who were currently married had been married before, meaning they were in their second (or subsequent) marriage. This group equated to 11 per cent of the sample as a whole. Figures from the 2001 Census suggest that over 7 per cent of adults in England & Wales are remarried. The results from this survey would not therefore appear to be out of line with these, especially as it is likely that the proportion of those in second marriages has increased since 2001 (ONS: 2007a).

Among those who were single, eight per cent said that they had been married before. Furthermore, around a quarter of cohabitants had previously been married. When including those who were widowed, divorced or separated, this means that in total, across the whole sample, 30 per cent had at some stage been married before but were no longer in that relationship.

## Family structure

### *Children*

The questionnaire included a series of measures that established whether respondents had their own children or step-children both inside and outside their household, from current and/or previous relationships. In addition, questions were included to identify whether the respondent's partner had any children from previous relationships. The main measures are summarised in Table A2.

Just under a third (31 per cent) of all respondents had their own children living with them in their household. Forty-six per cent had children who no longer lived in the household. Furthermore, 38 per cent said that they had children from any previous relationship. Of course, these three groups are not mutually exclusive as more than one of these could apply to an individual respondent. Thus for around two-thirds (65 per cent) of the sample, at least one of these conditions applied (i.e. they had children either living with them or who had grown-up and left home).

A small minority of respondents (13 per cent) had step-children, defined as either i) respondents who were living with step-children (two per cent), or, ii) whose spouse or partner had children from a previous relationship, regardless of where the children were living (12 per cent).

**Table A2 Children**

|  |                              |
|--|------------------------------|
| <i>Base: all adults aged 16+ in England &amp; Wales</i>            | <i>NatCen Omnibus Survey</i> |
|  | Total                        |
|  | %                            |
| Respondent has own children in household                           | 31                           |
| Respondent and current partner have own children outside household | 29                           |
| Respondents has children from any previous relationship            | 38                           |
| <i>Has own children anywhere (Any of the above )</i>               | <i>65</i>                    |
|  |                              |
| Living with step-children  | 2                            |
| Respondent has step-children from previous relationship            | 2                            |
| Partner has children from previous relationship                    | 12                           |
| <i>Respondent has any step-children (Either of the above)</i>      | <i>13</i>                    |
|  |                              |
|  |                              |
| <i>Bases</i>   | <i>1,556</i>                 |

We identified respondents with children from previous relationships because such children might be seen as competing with the respondent's new partner if the respondent had re-partnered and then died intestate. However, it seems likely that when responding to this question, respondents included children from their current relationships<sup>11</sup>. For this reason, a separate sub-group was identified, defined as follows:

*Those who claim to have children from previous relationships AND who*

- *have been married before*
- *are single*
- *cohabiting*
- *divorced*
- *separated*
- *or same sex couple*

This has the effect of excluding respondents in their first marriage who claim to have children from a previous relationship. Whilst it is recognised that some such respondents may genuinely have children from other relationships (such as a cohabitation), on balance it is likely that many of these respondents will actually have been referring to children from their current marriage when answering the question. This group comprised 22 per cent of the sample (rather than the 38 per cent shown in the table above). This more tightly defined sub-group is considered further in Chapter 7.

### *Parents*

The questionnaire included a series of questions designed to establish whether the respondent had parents who had re-partnered, as this might potentially influence their views on inheritance. As shown in Fig. A2, around a third (32 per cent) of respondents had parents who were still together. A small proportion (three per cent) had parents who had separated but not re-partnered. Thirteen per cent had parents who had re-partnered following separation or the death of the other parent.

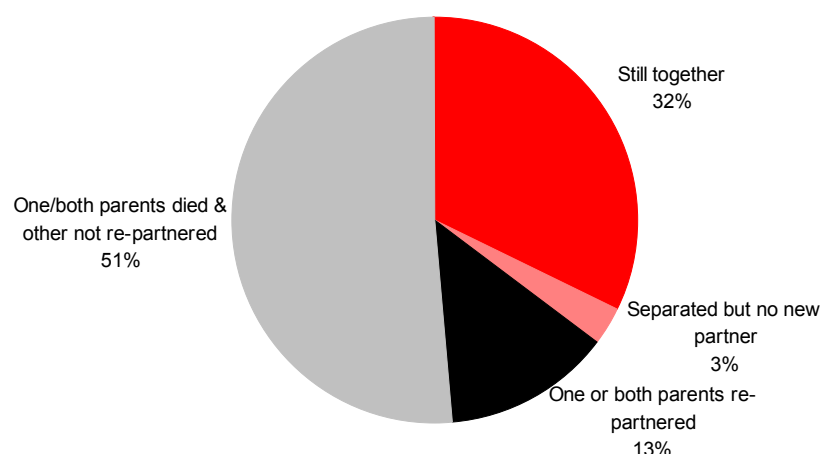
<sup>11</sup> 38 per cent seems high when it is considered that among those with partners, only 22 per cent claimed that their partners had children from previous relationships.

This group was of particular interest since the new partner might have been seen as competing with the respondent in the event of the respondent's parent dying intestate.

For the remaining half (51 per cent) of the sample, either both the respondent's parents had died or one had died and the surviving parent had not re-partnered. It is of course probable that this group includes respondents with parents who had re-partnered prior to their death. However, we were not able to collect this level of detail within the survey questionnaire.

## Figure A2 Parental status

Base: All respondents



Among respondents whose parents were both still living, the proportion whose parents were no longer together was higher among younger respondents, ranging from 35 per cent of those aged 16 to 34 to 18 per cent of those aged 35 to 54 (obviously, the number of respondents beyond 55 with both parents still living gets quite small). This probably reflects increasing divorce rates and is important as it highlights the increasing prevalence of more complex family structures among successive cohorts of people, for whom issues connected with intestacy and inheritance are likely to be more difficult.

### Siblings

The majority (85 per cent) of respondents had either a living brother or sister (Table A3). Those with at least one parent still living were asked whether they had any half- or step-siblings. This group was identified because it is possible that their half- or step-siblings might represent a competing interest in the event of their parents' death. Seventeen per cent had a half-brother or sister (i.e. with whom they shared one parent) and ten per cent had a step-brother or sister (i.e. with whom they did not share a parent)<sup>12</sup>. Again, the prevalence of half- or step-siblings was slightly higher among younger respondents, echoing the pattern noted in the previous section. It was also lower among those with higher levels of financial assets.

Of the sample as a whole, 15 per cent had at least one parent still living and a half- or step-sibling.

<sup>12</sup> Of course there will be some overlap between these groups – and indeed with those who had a full-sibling.

**Table A3 Siblings**

|   |                              |
|---|------------------------------|
| <i>Base: all adults aged 16+ in England &amp; Wales</i>                 | <i>NatCen Omnibus Survey</i> |
|   | Total                        |
|   | %                            |
| Brother or sister   | 85                           |
| <i>Base (all adults aged 16+ in England &amp; Wales)</i>                | <i>1,556</i>                 |
|   |                              |
| Half-brother or sister  | 17                           |
| Step-brother or sister  | 10                           |
| <i>Bases (all with at least one parent still living)</i>                | <i>927</i>                   |
|   |                              |
| At least one parent still living and half-sibling or step-sibling (NET) | 15                           |
| <i>Base (All respondents)</i>   | <i>1,556</i>                 |

## Financial assets

The total value of people's assets might be expected to have a bearing on their views about what should happen in the event of someone dying intestate. For this reason, the survey included a question about the total value of respondents' property. This was designed to measure total net assets including property. The question was worded as follows.

*What would you say is the approximate total current value of all your money and property? By 'property' we mean all your money and possessions and any house you own, including your share of any joint property. Please deduct any mortgages or loans from the value of any property.*

As is shown in Table A4, just under a third (30 per cent) of respondents had assets of less than £10,000 (this group is the most likely to die intestate)<sup>13</sup>. Around a fifth had total assets in each of the successive bands £10,000 to £100,000, £100,000 to £200,000 and £200,000 to £500,000. Seven per cent had assets in excess of half a million pounds. There was a wide variation by age. The majority (85 per cent) of those in the youngest age group had assets of less than £10,000, falling to 36 per cent of those aged 25 to 34 and 14 per cent of those aged 75 or more. Conversely, the proportion with assets in excess of £500,000 increased from virtually none of those in the youngest age bands up to 18 per cent of those aged 65 to 74 before falling back to six per cent of those in the oldest age group.

<sup>13</sup> Multivariate analysis from this study confirms that even once age is controlled for, those with lower assets values are less likely to have a will.

**Table A4 Assets by age**

| <i>Base: All adults aged 16+ in England &amp; Wales</i> |                   |            |            |            |            |            |            | NatCen<br>Omnibus<br>Survey |
|---|-------------------|------------|------------|------------|------------|------------|------------|-----------------------------|
|   | Age of respondent |            |            |            |            |            |            |                             |
|   | 16 to 24          | 25 to 34   | 35 to 44   | 45 to 54   | 55 to 64   | 65 to 74   | 75+        | Total                       |
|   | %                 | %          | %          | %          | %          | %          | %          | %                           |
| Up to £10,000   | 85                | 36         | 24         | 15         | 13         | 13         | 14         | 30                          |
| Between £10,000 and £100,000                            | 13                | 34         | 21         | 19         | 15         | 24         | 29         | 22                          |
| Between £100,000 and £200,000                           | 2                 | 19         | 20         | 32         | 28         | 22         | 27         | 21                          |
| Between £200,000 and £500,000                           | *                 | 9          | 30         | 27         | 31         | 24         | 24         | 21                          |
| Over £500,000   | 0                 | 2          | 5          | 7          | 14         | 18         | 6          | 7                           |
|   |                   |            |            |            |            |            |            |                             |
| <b>Bases</b>  | <b>121</b>        | <b>250</b> | <b>278</b> | <b>235</b> | <b>227</b> | <b>182</b> | <b>122</b> | <b>1,415<sup>14</sup></b>   |

Single respondents were much more likely to have the lowest total assets with 70 per cent of this group having up to £10,000. Married respondents had higher levels of assets. Multivariate analysis confirms both age and marital status to be independently related to financial worth.

#### *Receipt on death of another*

Around two-fifths (39 per cent) of respondents had previously received something on the death of another person and this increased with age. Among those who had, this was predominantly from a parent (51 per cent), grandparent (30 per cent) or aunt or uncle (16 per cent).

<sup>14</sup> Approximately 9 per cent of respondents did not give an answer at this question (three per cent refused and six per cent did not know) and are not included in the base.

# Appendix B NatCen Omnibus Technical Summary

The NatCen Omnibus has been designed to carry questions for government, charities, academic institutions and other non-profit organisations interested in producing high-quality data on a range of social topics. It employs a stratified random probability sample and is conducted using computer assisted personal interviewing. This summary contains further details of the sample design and methods used to conduct the survey.

## Sample

The sample was obtained using a multi-stage sampling design. First, 153 postcode sectors were selected from the small users Postcode Address File (PAF). All sectors in mainland Great Britain (England, Wales and Scotland), excluding the area of Scotland north of the Caledonian Canal were covered.

Prior to selection, the postcode sectors had been ordered by

- Government Office Region (GOR)
- percentage of households where the household reference person was in NS-SEC categories 1-2 with variable banding used to create three equal-sized strata per GOR; and
- ranking by percentage of homes that were owner-occupied.

The sample of 153 postcode sectors was systematically selected from this list, with probability proportional to size.

Next, 20 addresses were sampled from the PAF from each selected postcode sector. This gave a total of 3,060 issued addresses, each selected with equal probability. A single adult (defined as anyone aged 16 or over) was then selected at random out of all adults residing at that address to take part in the survey.

## Questionnaire development

All questions were developed in collaboration with the team from Cardiff University and after discussion with the Law Commission before being programmed. The survey program was tested by the research and operations teams. Checks were made to ensure the accuracy and sense of questionnaire wording and response options, as well as the accuracy of showcard references. Scenarios were tested to ensure that routing was correct and that respondents would not be asked inappropriate questions dependent on the circumstances. There were also checks for screen layout, spelling and the clarity of instructions to interviewers.<sup>15</sup>

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<sup>15</sup> NatCen's omnibus survey also asks a set of standard classification questions to collect socio-demographic information on the sample. Interviewers collect data on household composition, employment status, details of employment, sex, age, marital status, educational attainment, housing tenure, disability at the beginning of the interview and on national identity, ethnicity, sexual identity, income and benefits at the end of the interview. We have used some of this data in our sub-group analysis.

## Fieldwork

Fieldwork for the first wave took place from Thursday 23<sup>rd</sup> July and ended Sunday 20<sup>th</sup> September. Interviews were conducted with 1,219 adults aged 16+ in England and Wales. The response rate was 49 per cent.

The questions were then run again on a second wave in order to boost the number of respondents in certain key groups of interest. The decision of which sub-groups to be boosted was informed by analysis of data from the first wave. The following sub-groups were boosted:

- Cohabitants
- Those who had a partner who had children from a previous relationship
- Those who had parents who had re-partnered

Fieldwork for the second (boost) wave took place from 12<sup>th</sup> October until 28<sup>th</sup> November 2009. A total of 337 interviews were undertaken with adults aged 16 or more in the sub-groups above. The response rate for the Omnibus as a whole was 48 per cent.

Interviews were carried out by NatCen interviewers using computer assisted personal interviewing techniques. Computer assisted interviewing improves data quality by including accurate routing to the relevant questions for a particular respondent and consistency checks on responses. All interviewers at NatCen receive extensive training in administering face-to-face surveys including training in converting refusals at each address and, once an interview has been secured, asking questions in a non-biased way.

Interviewers were also briefed on the project to inform them of the particular survey procedures and content of the questionnaire. New interviewers attended a briefing in person. More experienced interviewers received a home-briefing pack and were asked to complete an assignment to ensure they had taken the time to read their instructions and practice the questionnaire.

A letter was sent to each address in advance of the interviewer calling. The letter briefly described the purpose of the survey, the coverage of the questionnaire and reassured potential respondents that their answers would be treated in strict confidence. A £5 high street voucher was sent with every letter as an unconditional incentive to encourage participation in the survey.

To improve response interviewers call at each address at least six times and up to a maximum of nine times, at different times of the day and at different times during the week. The first three calls must be made after 6pm Monday to Thursday or at the weekend when research has found that these are the optimum times for securing an interview. Interviewers recorded the time, date and outcome of all calls and checks were made by field management. Non-contacts were not accepted unless the pattern, as well as the number of calls, conformed to the basic requirements that normally at least one call must be made at a weekend, and one on a weekday evening.

The average interview lengths for the full Omnibus were 39 minutes (for the first wave) and 27 minutes (for the second wave).

## Response

Interviewer progress was recorded and monitored using NatCen's booking-in system.



The overall response rate was 49 per cent as shown in Table B1. The response rate is calculated as the number of achieved interviews as a percentage of the eligible sample.

**Table B1 Response rate for Omnibus (Quarter 3 & 4 2009)**

| <i>Outcome</i>                   | <i>Quarter 3</i> |          |          | <i>Quarter 4</i> |          |          |
|----------------------------------|------------------|----------|----------|------------------|----------|----------|
|                                  | <i>Number</i>    | <i>%</i> | <i>%</i> | <i>Number</i>    | <i>%</i> | <i>%</i> |
| Issued addresses                 | 3,060            | 100      |          | 3,060            | 100      |          |
| Ineligible addresses             | 278              | 9        |          | 277              | 9        |          |
| Eligible addresses               | 2,782            | 91       | 100      | 2,783            | 91       | 100      |
| Non-contacts                     | 141              |          | 5        | 150              |          | 5        |
| Refusals                         | 993              |          | 36       | 1,057            |          | 38       |
| Other non-interview              | 207              |          | 7        | 164              |          | 6        |
| Unknown eligibility (no contact) | 52               |          | 2        | 62               |          | 2        |
| Unknown eligibility (no contact) | 12               |          | 0        | 13               |          | 0        |
| Productive interviews            | 1377*            |          | 49       | 1337**           |          | 48       |

\* 2 interviews were subsequently deleted due to errors in selection

\*\* 4 interviews were subsequently deleted due to errors in selection

The response rate above is the lowest possible response rate, calculated by treating all cases where eligibility is unknown as eligible. The maximum response rate, calculated by treating all such cases as ineligible, would be 51% and 49% respectively.

## Coding and editing

Interviewer checks in the CAPI program allow interviewers to clarify and query any data discrepancies directly with the respondent. The CAPI program applies range and consistency error checks and both types of checks were used throughout the questionnaire. Where a check was triggered the interviewer often opened and recorded a note explaining the respondent's situation. These notes are recorded alongside the data and are reviewed by the project team in the operations department.

In-office coding and editing also took place on returned interviews. This involves a coder working through each interview in turn, using a modified version of the CAPI program. The coder reviewed all 'other' responses that had been entered to ensure that they couldn't be backcoded into any of the existing codes at that question.

In addition, there were open questions. The code frames used on this study were developed by the researchers from a listing of responses to the relevant questions from the first completed interviews.

In the course of the interview, where a respondent gave details of employment, this information was coded to the Standard Occupation classification – SOC (2000).

## Weighting

The Omnibus inheritance module was asked in England & Wales – Scotland was excluded because the law there is different. The sampling strategy involved boosting certain groups of interest (as described above). All respondents in England & Wales answered the inheritance questions in Quarter 3, whereas in Quarter 4, the questions were restricted to only those in the boost group.

The weighting for the Omnibus inheritance module consisted of three components: selection weights to correct for individuals' differing probabilities of selection for the main survey, an additional weight for selection for the inheritance module, and calibration weighting to adjust the weighted achieved sample to match population estimates.

## **Selection weights**

Selection weights are calculated to correct for the unequal probability of selection. Each address on the PAF was equally likely to be selected, so a selection weight for the addresses was not needed. However, we interviewed only one adult per address so individuals in multi-occupied and large households would be under-represented in the final sample if this was not taken into account. Individuals had been chosen by first choosing a dwelling unit out of all those in the address, and then choosing an adult at random from all those in the given dwelling unit. Thus, the correct selection weight is equal to the number of dwelling units at the chosen address multiplied by the number of adults identified at the dwelling unit. A small number of large selection weights were trimmed. Trimming ensures that no individual has a disproportionately high influence on the survey estimates

## **Inheritance module selection weight**

Everyone in the boost group was given an inheritance module selection weight of 1, as they were all chosen for the inheritance module. Those not in the boost group had a probability of a half of being given the module; so they were given an inheritance module selection weight of 2.

## **Calibration weights**

The selection weights were multiplied by the inheritance module selection weight and the resulting weight was adjusted using calibration weighting so that the weighted distributions matched population totals. This reduces potential sample bias caused by any differential non-response between different groups and across regions. We calibrated to the marginal age/sex and GOR distribution. In order to do this we needed to derive good estimates of the population size across region and age/sex group.

## **The study population**

The study population used in the Omnibus survey consists of every adult resident in an address covered by the PAF. In order to calibrate to this we need to know the population totals broken down by age/sex and GOR. The population totals we used were taken from the mid-year 2008 population totals supplied by the ONS. The ONS totals refer to a slightly different population than the study population. For example, the study population excludes elderly people living in care homes (care homes are not included in the PAF) whereas the ONS estimated resident population of an area includes all people who usually live there. In order to obtain a good estimate for the population totals we subtracted the estimated number people living in care homes from the ONS mid-year population estimates.

## **Age bands**

The achieved sample size was 1,556 responses. With this size of sample, bands of ten-year intervals were deemed appropriate. As the Omnibus survey defines an adult to be anyone aged 16 or over, we used the age bands 16-24, 25-34, 35-44, 45-54, 55-64, 65-74, 75+.

The estimated population size is given in the tables below.

**Table B2** Estimated mid-year 2008 household population size by GOR

| <i>GOR</i>               | <i>Estimated population size</i> |
|--------------------------|----------------------------------|
| North East               | 2,093,000                        |
| North West               | 5,521,000                        |
| Yorkshire and the Humber | 4,202,000                        |
| East Midlands            | 3,582,000                        |
| West Midlands            | 4,316,000                        |
| East                     | 4,595,000                        |
| London                   | 6,104,000                        |
| South East               | 6,720,000                        |
| South West               | 4,237,000                        |
| Wales                    | 2,414,000                        |
| TOTAL                    | 43,785,000                       |

**Table B3** Estimated mid-year 2008 household population size by age and sex

| <i>Age group</i> | <i>Estimated population size</i> |            |
|------------------|----------------------------------|------------|
|                  | Male                             | Female     |
| 16 – 24          | 3,388,000                        | 3,212,000  |
| 25 – 34          | 3,550,000                        | 3,481,000  |
| 35 – 44          | 4,039,000                        | 4,090,000  |
| 45 – 54          | 3,553,000                        | 3,634,000  |
| 55 – 64          | 3,162,000                        | 3,284,000  |
| 65 – 74          | 2,148,000                        | 2,360,000  |
| 75 +             | 1,597,000                        | 2,286,000  |
| TOTAL            | 21,438,000                       | 22,347,000 |

## Final weights

The calibration weights were then scaled to give the final weight. We scaled so that the sum of the final weights equalled the achieved sample size<sup>16</sup>. These weights were checked for extreme values before being issued.

<sup>16</sup>. Other methods such as scaling so they sum to the population size are equally valid, but our method has the advantage that for any sub-group the size of the weighted base will be approximately equal to the size of the unweighted base.

# Appendix C Survey data tables

## Whether have will

Have you yourself, made a formal will, that is a will that has been signed and witnessed?

|  |                      | Yes<br>%  | No<br>%   | Weighted<br>base | Unweighted<br>base |
|--|----------------------|-----------|-----------|------------------|--------------------|
| Sex  | Male                 | 35        | 65        | 760              | 700                |
|  | Female               | 40        | 60        | 794              | 853                |
| Age  | 16 to 24             | 6         | 94        | 235              | 134                |
|  | 25 to 34             | 8         | 92        | 248              | 260                |
|  | 35 to 44             | 27        | 73        | 288              | 293                |
|  | 45 to 54             | 41        | 59        | 255              | 251                |
|  | 55 to 64             | 60        | 40        | 229              | 251                |
|  | 65 to 74             | 73        | 27        | 160              | 213                |
|  | 75 or more           | 82        | 18        | 138              | 151                |
| Marital status                                       | Married - second+    | 51        | 49        | 168              | 190                |
|  | Married - first      | 47        | 53        | 620              | 517                |
|  | Cohabiting           | 20        | 80        | 185              | 238                |
|  | Single               | 13        | 87        | 357              | 287                |
|  | Widowed              | 78        | 22        | 98               | 140                |
|  | Divorced             | 36        | 64        | 86               | 129                |
|  | Separated            | 32        | 68        | 36               | 48                 |
| If ever been divorced                                | Same sex couple      | -         | -         | 2                | 2                  |
|  | Yes                  | 49        | 51        | 464              | 607                |
| Financial value of all property                      | No                   | 32        | 68        | 1090             | 946                |
|  | Up to £10,000        | 9         | 91        | 423              | 383                |
|  | £10,000 to £100,000  | 31        | 69        | 307              | 344                |
|  | £100,000 to £200,000 | 49        | 51        | 297              | 316                |
|  | £200,000 to £500,000 | 58        | 42        | 291              | 280                |
|  | Over £500,000        | 80        | 20        | 94               | 92                 |
| Has children from previous relationship <sup>1</sup> | Yes                  | 38        | 62        | 347              | 465                |
|  | No                   | 37        | 63        | 1207             | 1088               |
| Has step-children <sup>2</sup>                       | Yes                  | 36        | 64        | 209              | 295                |
|  | No                   | 38        | 62        | 1345             | 1258               |
| Parent still living and has half- or step-siblings   | Yes                  | 14        | 86        | 233              | 256                |
|  | No                   | 42        | 58        | 1321             | 1297               |
| Has full-siblings                                    | Yes                  | 34        | 66        | 1321             | 1306               |
|  | No                   | 59        | 41        | 233              | 247                |
| <b>Total</b>   |                      | <b>37</b> | <b>63</b> | <b>1554</b>      | <b>1553</b>        |

Base: Adults in England & Wales aged 16+ Source: NatCen Omnibus Quarters 3 & 4 2009

1 Excludes respondents in their first marriage who claim to have children from previous relationships - see Appendix A

2 Defined as those whose spouse or partner has children from a previous relationship or those who have step-children - see Appendix A

## Feelings about making a will

### Feelings about making a will

|   |                      | I intend to<br>make a will | I do not<br>think it is<br>necessary | I have not<br>really<br>thought<br>about it | Weighted<br>base | Unweighted<br>base |
|---|----------------------|----------------------------|--------------------------------------|---|------------------|--------------------|
|   |                      | %                          | %                                    | %   |                  |                    |
| Sex   | Male                 | 45                         | 11                                   | 45  | 493              | 418                |
|   | Female               | 54                         | 8                                    | 37  | 477              | 504                |
| Age   | 16 to 24             | 24                         | 8                                    | 68  | 221              | 127                |
|   | 25 to 34             | 48                         | 6                                    | 46  | 229              | 239                |
|   | 35 to 44             | 61                         | 8                                    | 31  | 210              | 211                |
|   | 45 to 54             | 67                         | 9                                    | 25  | 151              | 153                |
|   | 55 to 64             | 70                         | 12                                   | 18  | 90               | 105                |
|   | 65 to 74             | 38                         | 19                                   | 44  | 43               | 58                 |
|   | 75 or more           | 34                         | 38                                   | 28  | 25               | 29                 |
| Marital status  | Married - second+    | 62                         | 8                                    | 30  | 83               | 89                 |
|   | Married - first      | 63                         | 8                                    | 29  | 324              | 268                |
|   | Cohabiting           | 55                         | 9                                    | 36  | 148              | 185                |
|   | Single               | 30                         | 7                                    | 63  | 310              | 234                |
|   | Widowed              | 35                         | 41                                   | 23  | 22               | 32                 |
|   | Divorced             | 55                         | 18                                   | 27  | 55               | 81                 |
|   | Separated            | 50                         | 19                                   | 31  | 25               | 32                 |
| If ever been<br>divorced                                  | Yes                  | 55                         | 16                                   | 29  | 235              | 295                |
|   | No                   | 48                         | 7                                    | 45  | 735              | 627                |
| Financial value<br>of all property                        | Up to £10,000        | 28                         | 16                                   | 56  | 386              | 344                |
|   | £10,000 to £100,000  | 62                         | 5                                    | 33  | 210              | 225                |
|   | £100,000 to £200,000 | 66                         | 5                                    | 29  | 150              | 160                |
|   | £200,000 to £500,000 | 78                         | 1                                    | 21  | 123              | 108                |
|   | Over £500,000        | 83                         | 4                                    | 13  | 19               | 14                 |
| Has children from<br>previous relationship <sup>1</sup>   | Yes                  | 55                         | 13                                   | 32  | 216              | 293                |
|   | No                   | 48                         | 8                                    | 44  | 753              | 629                |
| Has step-children <sup>2</sup>                            | Yes                  | 57                         | 10                                   | 33  | 134              | 178                |
|   | No                   | 48                         | 9                                    | 43  | 836              | 744                |
| Parent still living and<br>has half- or step-<br>siblings | Yes                  | 40                         | 9                                    | 51  | 200              | 213                |
|   | No                   | 52                         | 9                                    | 39  | 770              | 709                |
| Has full-siblings   | Yes                  | 49                         | 10                                   | 41  | 874              | 826                |
|   | No                   | 55                         | 6                                    | 39  | 95               | 96                 |
| <b>Total</b>  |                      | <b>49</b>                  | <b>9</b>                             | <b>41</b>                                   | <b>970</b>       | <b>922</b>         |

Base: Adults in England & Wales aged 16+ who have not made a will Source: NatCen Omnibus Quarters 3 & 4 2009

<sup>1</sup> Excludes respondents in their first marriage who claim to have children from previous relationships - see Appendix A

<sup>2</sup> Defined as those whose spouse or partner has children from a previous relationship or those who have step-children - see Appendix A

## Scenario 1: Married woman survived by husband and mother

### Married man survived by husband and mother

|  |                      | All to husband | Priority to husband | Shared equally | Priority to mother | All to mother | Other    | Weighted base | Unweighted base |
|--|----------------------|----------------|---------------------|----------------|--------------------|---------------|----------|---------------|-----------------|
|  |                      | %              | %                   | %              | %                  | %             | %        |               |                 |
| Sex  | Male                 | 63             | 20                  | 15             | 1                  | 1             | 1        | 754           | 692             |
|  | Female               | 63             | 21                  | 14             | 1                  | 1             | 0        | 784           | 841             |
| Banded age   | 16 to 24             | 33             | 31                  | 33             | 2                  | 2             |          | 234           | 133             |
|  | 25 to 34             | 56             | 26                  | 14             | 2                  | 1             | 1        | 248           | 260             |
|  | 35 to 44             | 64             | 23                  | 11             | 0                  | 1             | 1        | 286           | 292             |
|  | 45 to 54             | 74             | 16                  | 9              | 0                  |               | 0        | 254           | 249             |
|  | 55 to 64             | 77             | 13                  | 10             | 1                  | 0             |          | 225           | 247             |
|  | 65 to 74             | 72             | 16                  | 9              | 1                  | 1             | 1        | 157           | 208             |
|  | 75 or more           | 69             | 15                  | 13             | 0                  |               | 2        | 133           | 144             |
| Marital status                                       | Married - second+    | 77             | 15                  | 6              |                    | 1             | 0        | 164           | 187             |
|  | Married - first      | 72             | 16                  | 10             | 1                  | 0             | 0        | 618           | 515             |
|  | Cohabiting           | 55             | 28                  | 14             | 2                  | 1             | 1        | 184           | 237             |
|  | Single               | 40             | 31                  | 27             | 1                  | 2             | 0        | 356           | 287             |
|  | Widowed              | 75             | 14                  | 7              | 2                  |               | 2        | 93            | 132             |
|  | Divorced             | 63             | 18                  | 20             |                    |               |          | 83            | 125             |
|  | Separated            | -              | -                   | -              | -                  | -             | -        | 36            | 47              |
|  | Same sex couple      | -              | -                   | -              | -                  | -             | -        | 2             | 2               |
| If ever been divorced                                | Yes                  | 70             | 17                  | 12             | 0                  | 0             | 1        | 452           | 590             |
|  | No                   | 60             | 22                  | 16             | 1                  | 1             | 1        | 1086          | 943             |
| Financial value of all property                      | Up to £10,000        | 43             | 27                  | 26             | 1                  | 2             | 1        | 419           | 378             |
|  | £10,000 to £100,000  | 64             | 22                  | 13             | 1                  | 0             | 1        | 307           | 344             |
|  | £100,000 to £200,000 | 75             | 15                  | 10             | 0                  |               | 0        | 293           | 311             |
|  | £200,000 to £500,000 | 76             | 15                  | 8              | 1                  | 0             | 0        | 290           | 279             |
|  | Over £500,000        | 71             | 22                  | 7              |                    | 1             |          | 94            | 92              |
| Whether made a will                                  | Yes                  | 75             | 15                  | 8              | 1                  | 0             | 1        | 574           | 619             |
|  | No                   | 55             | 24                  | 18             | 1                  | 1             | 1        | 963           | 912             |
| Has children from previous relationship <sup>1</sup> | Yes                  | 63             | 20                  | 16             | 0                  | 1             | 1        | 341           | 458             |
|  | No                   | 63             | 21                  | 14             | 1                  | 1             | 1        | 1197          | 1075            |
| Has step-children <sup>2</sup>                       | Yes                  | 72             | 17                  | 9              | 0                  | 1             | 0        | 208           | 294             |
|  | No                   | 61             | 21                  | 15             | 1                  | 1             | 1        | 1330          | 1239            |
| Parent still living and has half- or step-siblings   | Yes                  | 51             | 25                  | 18             | 3                  | 2             | 1        | 233           | 256             |
|  | No                   | 65             | 20                  | 14             | 1                  | 1             | 1        | 1305          | 1277            |
| Has full-siblings                                    | Yes                  | 63             | 21                  | 15             | 1                  | 0             | 1        | 1309          | 1291            |
|  | No                   | 62             | 19                  | 13             | 1                  | 3             | 1        | 229           | 242             |
| <b>Total</b>   |                      | <b>63</b>      | <b>21</b>           | <b>14</b>      | <b>1</b>           | <b>1</b>      | <b>1</b> | <b>1538</b>   | <b>1533</b>     |

Base: Adults in England & Wales aged 16+ Source: NatCen Omnibus Quarters 3 & 4 2009

1 Excludes respondents in their first marriage who claim to have children from previous relationships - see Appendix A

2 Defined as those whose spouse or partner has children from a previous relationship or those who have step-children - see Appendix A

## Scenario 2: Married man survived by wife and two children over 18

### Married man survived by wife and two children over 18

|  |                      | All to wife | Priority to wife | Shared equally | Priority to children over 18 | All to two children over 18 | Other    | Weighted base | Unweighted base |
|--|----------------------|-------------|------------------|----------------|------------------------------|-----------------------------|----------|---------------|-----------------|
|  |                      | %           | %                | %              | %                            | %                           | %        |               |                 |
| Sex  | Male                 | 52          | 28               | 16             | 3                            | 1                           | 0        | 754           | 694             |
|  | Female               | 50          | 29               | 15             | 3                            | 1                           | 1        | 786           | 845             |
| Banded age   | 16 to 24             | 22          | 37               | 33             | 5                            | 3                           |          | 234           | 133             |
|  | 25 to 34             | 33          | 39               | 20             | 6                            | 1                           | 0        | 247           | 259             |
|  | 35 to 44             | 45          | 34               | 15             | 4                            | 1                           | 0        | 289           | 294             |
|  | 45 to 54             | 60          | 24               | 11             | 2                            | 1                           | 2        | 255           | 250             |
|  | 55 to 64             | 73          | 17               | 8              | 1                            | 1                           |          | 225           | 247             |
|  | 65 to 74             | 72          | 18               | 7              | 1                            | 2                           | 0        | 157           | 210             |
|  | 75 or more           | 67          | 21               | 11             |                              | 0                           | 1        | 134           | 146             |
| Marital status                                       | Married - second+    | 67          | 22               | 7              | 2                            | 1                           | 1        | 166           | 188             |
|  | Married - first      | 61          | 26               | 9              | 3                            | 1                           | 0        | 616           | 514             |
|  | Cohabiting           | 37          | 30               | 25             | 6                            | 1                           | 1        | 184           | 237             |
|  | Single               | 28          | 40               | 26             | 4                            | 2                           | 0        | 356           | 287             |
|  | Widowed              | 70          | 20               | 9              | 1                            |                             | 0        | 94            | 135             |
|  | Divorced             | 54          | 21               | 22             | 2                            | 0                           |          | 83            | 126             |
|  | Separated            | -           | -                | -              | -                            | -                           | -        | 36            | 48              |
|  | Same sex couple      | -           | -                | -              | -                            | -                           | -        | 2             | 2               |
| If ever been divorced                                | Yes                  | 60          | 23               | 13             | 2                            | 1                           | 1        | 456           | 597             |
|  | No                   | 47          | 31               | 17             | 3                            | 1                           | 0        | 1084          | 942             |
| Financial value of all property                      | Up to £10,000        | 29          | 35               | 29             | 5                            | 2                           | 0        | 421           | 381             |
|  | £10,000 to £100,000  | 49          | 29               | 16             | 3                            | 2                           | 1        | 305           | 343             |
|  | £100,000 to £200,000 | 64          | 24               | 9              | 2                            |                             | 1        | 293           | 312             |
|  | £200,000 to £500,000 | 62          | 28               | 6              | 3                            | 0                           | 0        | 290           | 279             |
|  | Over £500,000        | 72          | 18               | 5              | 3                            | 1                           | 1        | 94            | 92              |
| Whether made a will                                  | Yes                  | 70          | 21               | 7              | 1                            | 0                           | 1        | 572           | 620             |
|  | No                   | 40          | 33               | 20             | 5                            | 2                           | 0        | 966           | 917             |
| Has children from previous relationship <sup>1</sup> | Yes                  | 52          | 25               | 18             | 4                            | 1                           | 1        | 343           | 461             |
|  | No                   | 51          | 30               | 15             | 3                            | 1                           | 0        | 1197          | 1078            |
| Has step-children <sup>2</sup>                       | Yes                  | 59          | 25               | 12             | 3                            | 1                           | 1        | 208           | 294             |
|  | No                   | 50          | 29               | 16             | 3                            | 1                           | 1        | 1332          | 1245            |
| Parent still living and has half- or step-siblings   | Yes                  | 32          | 32               | 29             | 5                            | 1                           | 0        | 233           | 257             |
|  | No                   | 54          | 28               | 13             | 3                            | 1                           | 1        | 1307          | 1282            |
| Has full-siblings                                    | Yes                  | 50          | 29               | 16             | 3                            | 1                           | 0        | 1312          | 1297            |
|  | No                   | 56          | 26               | 12             | 3                            | 2                           | 1        | 228           | 242             |
| <b>Total</b>   |                      | <b>51</b>   | <b>29</b>        | <b>16</b>      | <b>3</b>                     | <b>1</b>                    | <b>1</b> | <b>1540</b>   | <b>1539</b>     |

Base: Adults in England & Wales aged 16+ Source: NatCen Omnibus Quarters 3 & 4 2009

1 Excludes respondents in their first marriage who claim to have children from previous relationships - see Appendix A

2 Defined as those whose spouse or partner has children from a previous relationship or those who have step-children - see Appendix A



### Scenario 3: Married man survived by wife and two young children

#### Married man survived by wife and two young children

|  |                      | All to wife | Priority to wife | Shared equally | Priority to two young children | All to two young children | Other    | Weighted base | Unweighted base |
|--|----------------------|-------------|------------------|----------------|--------------------------------|---------------------------|----------|---------------|-----------------|
|  |                      | %           | %                | %              | %                              | %                         | %        |               |                 |
| Sex  | Male                 | 51          | 24               | 16             | 6                              | 2                         | 0        | 755           | 695             |
|  | Female               | 48          | 28               | 18             | 5                              | 1                         | 0        | 786           | 843             |
| Banded age   | 16 to 24             | 31          | 32               | 28             | 6                              | 3                         |          | 234           | 133             |
|  | 25 to 34             | 46          | 26               | 19             | 5                              | 4                         |          | 247           | 259             |
|  | 35 to 44             | 48          | 25               | 16             | 10                             | 1                         | 0        | 289           | 294             |
|  | 45 to 54             | 57          | 26               | 11             | 6                              | 1                         |          | 254           | 249             |
|  | 55 to 64             | 58          | 23               | 14             | 3                              | 1                         |          | 226           | 247             |
|  | 65 to 74             | 57          | 27               | 12             | 2                              | 2                         |          | 157           | 210             |
|  | 75 or more           | 55          | 25               | 17             | 2                              | 1                         | 1        | 134           | 146             |
| Marital status                                       | Married - second+    | 64          | 23               | 11             | 2                              |                           |          | 167           | 189             |
|  | Married - first      | 54          | 26               | 13             | 5                              | 1                         | 0        | 616           | 514             |
|  | Cohabiting           | 47          | 29               | 14             | 6                              | 4                         | 0        | 184           | 237             |
|  | Single               | 35          | 29               | 26             | 7                              | 2                         |          | 355           | 286             |
|  | Widowed              | 54          | 24               | 19             | 3                              | 1                         |          | 93            | 134             |
|  | Divorced             | 48          | 22               | 26             | 4                              | 0                         |          | 84            | 126             |
|  | Separated            | -           | -                | -              | -                              | -                         | -        | 36            | 48              |
|  | Same sex couple      | -           | -                | -              | -                              | -                         | -        | 2             | 2               |
| If ever been divorced                                | Yes                  | 55          | 24               | 16             | 4                              | 2                         | 0        | 457           | 597             |
|  | No                   | 47          | 27               | 17             | 6                              | 2                         | 0        | 1084          | 941             |
| Financial value of all property                      | Up to £10,000        | 35          | 29               | 25             | 8                              | 3                         |          | 420           | 380             |
|  | £10,000 to £100,000  | 53          | 23               | 18             | 4                              | 2                         | 0        | 304           | 342             |
|  | £100,000 to £200,000 | 58          | 25               | 12             | 4                              | 0                         |          | 294           | 312             |
|  | £200,000 to £500,000 | 57          | 26               | 10             | 5                              | 1                         |          | 291           | 280             |
|  | Over £500,000        | 52          | 30               | 10             | 6                              | 2                         |          | 94            | 92              |
| Whether made a will                                  | Yes                  | 57          | 29               | 11             | 2                              | 1                         | 0        | 573           | 620             |
|  | No                   | 45          | 25               | 21             | 7                              | 2                         | 0        | 966           | 916             |
| Has children from previous relationship <sup>1</sup> | Yes                  | 50          | 23               | 20             | 4                              | 2                         | 0        | 345           | 462             |
|  | No                   | 49          | 27               | 16             | 6                              | 2                         | 0        | 1196          | 1076            |
| Has step-children <sup>2</sup>                       | Yes                  | 55          | 25               | 15             | 4                              | 1                         |          | 208           | 294             |
|  | No                   | 49          | 26               | 17             | 5                              | 2                         | 0        | 1333          | 1244            |
| Parent still living and has half- or step-siblings   | Yes                  | 41          | 25               | 22             | 9                              | 4                         |          | 233           | 257             |
|  | No                   | 51          | 27               | 16             | 5                              | 1                         | 0        | 1307          | 1281            |
| Has full-siblings                                    | Yes                  | 50          | 27               | 17             | 5                              | 2                         | 0        | 1312          | 1296            |
|  | No                   | 48          | 24               | 19             | 6                              | 3                         | 1        | 229           | 242             |
| <b>Total</b>   |                      | <b>50</b>   | <b>26</b>        | <b>17</b>      | <b>5</b>                       | <b>2</b>                  | <b>0</b> | <b>1541</b>   | <b>1538</b>     |

Base: Adults in England & Wales aged 16+ Source: NatCen Omnibus Quarters 3 & 4 2009

1 Excludes respondents in their first marriage who claim to have children from previous relationships - see Appendix A

2 Defined as those whose spouse or partner has children from a previous relationship or those who have step-children - see Appendix A

## Scenario 4: Woman and partner lived together for 25 years with two children over 18

Woman and partner lived together for 25 years with two children over 18, woman dies

|  |                      | All to two children over 18 | Priority to two children over 18 | Shared equally | Priority to partner | All to partner | Other    | Weighted base | Unweighted base |
|--|----------------------|-----------------------------|----------------------------------|----------------|---------------------|----------------|----------|---------------|-----------------|
|  |                      | %                           | %                                | %              | %                   | %              | %        |               |                 |
| Sex  | Male                 | 11                          | 15                               | 25             | 13                  | 34             | 2        | 751           | 690             |
|  | Female               | 9                           | 13                               | 30             | 17                  | 30             | 1        | 782           | 840             |
| Banded age   | 16 to 24             | 13                          | 23                               | 36             | 13                  | 13             | 2        | 234           | 133             |
|  | 25 to 34             | 9                           | 14                               | 29             | 19                  | 28             | 1        | 246           | 258             |
|  | 35 to 44             | 6                           | 17                               | 28             | 18                  | 30             | 0        | 288           | 293             |
|  | 45 to 54             | 8                           | 11                               | 23             | 14                  | 43             | 1        | 255           | 250             |
|  | 55 to 64             | 11                          | 11                               | 22             | 12                  | 44             |          | 225           | 247             |
|  | 65 to 74             | 13                          | 10                               | 29             | 11                  | 36             | 1        | 155           | 209             |
|  | 75 or more           | 18                          | 13                               | 20             | 14                  | 33             | 2        | 129           | 140             |
| Marital status                                       | Married - second+    | 8                           | 13                               | 18             | 14                  | 46             | 0        | 164           | 187             |
|  | Married - first      | 9                           | 12                               | 25             | 14                  | 40             | 1        | 613           | 510             |
|  | Cohabiting           | 9                           | 15                               | 30             | 17                  | 28             | 0        | 184           | 237             |
|  | Single               | 11                          | 21                               | 34             | 16                  | 16             | 2        | 355           | 286             |
|  | Widowed              | 17                          | 10                               | 26             | 16                  | 29             | 2        | 92            | 133             |
|  | Divorced             | 15                          | 13                               | 32             | 12                  | 28             |          | 84            | 127             |
|  | Separated            | -                           | -                                | -              | -                   | -              | -        | 36            | 47              |
|  | Same sex couple      | -                           | -                                | -              | -                   | -              | -        | 2             | 2               |
| If ever been divorced                                | Yes                  | 12                          | 13                               | 24             | 14                  | 35             | 1        | 452           | 593             |
|  | No                   | 9                           | 15                               | 28             | 15                  | 31             | 1        | 1080          | 937             |
| Financial value of all property                      | Up to £10,000        | 13                          | 18                               | 34             | 14                  | 19             | 1        | 420           | 380             |
|  | £10,000 to £100,000  | 7                           | 11                               | 32             | 15                  | 34             | 0        | 301           | 340             |
|  | £100,000 to £200,000 | 8                           | 11                               | 25             | 14                  | 40             | 1        | 293           | 312             |
|  | £200,000 to £500,000 | 9                           | 12                               | 20             | 19                  | 39             | 1        | 291           | 279             |
|  | Over £500,000        | 10                          | 12                               | 22             | 15                  | 38             | 2        | 94            | 92              |
| Whether made a will                                  | Yes                  | 11                          | 11                               | 23             | 13                  | 41             | 1        | 570           | 617             |
|  | No                   | 10                          | 16                               | 30             | 16                  | 27             | 1        | 961           | 911             |
| Has children from previous relationship <sup>1</sup> | Yes                  | 9                           | 14                               | 28             | 13                  | 34             | 1        | 344           | 461             |
|  | No                   | 10                          | 14                               | 27             | 15                  | 32             | 1        | 1188          | 1069            |
| Has step-children <sup>2</sup>                       | Yes                  | 7                           | 9                                | 21             | 19                  | 44             | 0        | 206           | 291             |
|  | No                   | 11                          | 15                               | 28             | 14                  | 30             | 1        | 1326          | 1239            |
| Parent still living and has half- or step-siblings   | Yes                  | 5                           | 15                               | 39             | 18                  | 23             |          | 233           | 256             |
|  | No                   | 11                          | 14                               | 25             | 14                  | 34             | 1        | 1299          | 1274            |
| Has full-siblings                                    | Yes                  | 10                          | 14                               | 28             | 15                  | 33             | 1        | 1306          | 1290            |
|  | No                   | 14                          | 15                               | 25             | 16                  | 28             | 3        | 226           | 240             |
| <b>Total</b>   |                      | <b>10</b>                   | <b>14</b>                        | <b>27</b>      | <b>15</b>           | <b>32</b>      | <b>1</b> | <b>1532</b>   | <b>1530</b>     |

Base: Adults in England & Wales aged 16+ Source: NatCen Omnibus Quarters 3 & 4 2009

1 Excludes respondents in their first marriage who claim to have children from previous relationships - see Appendix A

2 Defined as those whose spouse or partner has children from a previous relationship or those who have step-children - see Appendix A

## Scenario 5: Man and partner lived together for less than 2 years with baby

Man and partner lived together for less than two years with baby man dies

|  |                      | All to baby | Priority to baby | Shared equally | Priority to partner | All to partner | Other    | Weighted base | Unweighted base |
|--|----------------------|-------------|------------------|----------------|---------------------|----------------|----------|---------------|-----------------|
|  |                      | %           | %                | %              | %                   | %              | %        |               |                 |
| Sex  | Male                 | 13          | 23               | 22             | 13                  | 27             | 1        | 750           | 689             |
|  | Female               | 14          | 22               | 26             | 13                  | 24             | 0        | 774           | 833             |
| Banded age   | 16 to 24             | 13          | 34               | 25             | 11                  | 14             | 2        | 234           | 133             |
|  | 25 to 34             | 16          | 30               | 20             | 13                  | 21             |          | 245           | 257             |
|  | 35 to 44             | 12          | 19               | 26             | 17                  | 25             | 1        | 285           | 290             |
|  | 45 to 54             | 13          | 16               | 25             | 12                  | 33             | 1        | 255           | 250             |
|  | 55 to 64             | 13          | 21               | 24             | 12                  | 30             | 0        | 226           | 247             |
|  | 65 to 74             | 18          | 19               | 21             | 13                  | 28             | 1        | 155           | 209             |
|  | 75 or more           | 12          | 20               | 27             | 14                  | 26             | 0        | 125           | 136             |
| Marital status                                       | Married - second+    | 11          | 17               | 24             | 15                  | 31             | 1        | 165           | 188             |
|  | Married - first      | 15          | 20               | 23             | 13                  | 29             | 0        | 608           | 506             |
|  | Cohabiting           | 13          | 21               | 22             | 17                  | 27             |          | 183           | 236             |
|  | Single               | 14          | 33               | 27             | 10                  | 15             | 2        | 355           | 286             |
|  | Widowed              | 11          | 23               | 26             | 15                  | 24             | 1        | 90            | 130             |
|  | Divorced             | 16          | 18               | 27             | 10                  | 29             |          | 84            | 127             |
|  | Separated            | -           | -                | -              | -                   | -              | -        | 35            | 46              |
|  | Same sex couple      | -           | -                | -              | -                   | -              | -        | 2             | 2               |
| If ever been divorced                                | Yes                  | 12          | 22               | 24             | 14                  | 27             | 1        | 450           | 590             |
|  | No                   | 15          | 23               | 24             | 13                  | 24             | 1        | 1075          | 932             |
| Financial value of all property                      | Up to £10,000        | 13          | 33               | 24             | 12                  | 16             | 1        | 419           | 379             |
|  | £10,000 to £100,000  | 12          | 22               | 22             | 16                  | 27             |          | 299           | 338             |
|  | £100,000 to £200,000 | 12          | 19               | 23             | 10                  | 35             | 1        | 294           | 312             |
|  | £200,000 to £500,000 | 14          | 19               | 25             | 15                  | 26             | 0        | 286           | 275             |
|  | Over £500,000        | 17          | 12               | 27             | 16                  | 27             | 1        | 94            | 92              |
| Whether made a will                                  | Yes                  | 14          | 20               | 22             | 13                  | 31             | 1        | 566           | 613             |
|  | No                   | 14          | 25               | 25             | 13                  | 22             | 1        | 957           | 907             |
| Has children from previous relationship <sup>1</sup> | Yes                  | 12          | 22               | 25             | 13                  | 27             | 1        | 344           | 461             |
|  | No                   | 14          | 23               | 24             | 13                  | 25             | 1        | 1181          | 1061            |
| Has step-children <sup>2</sup>                       | Yes                  | 11          | 17               | 23             | 18                  | 30             | 1        | 206           | 291             |
|  | No                   | 14          | 24               | 24             | 12                  | 24             | 1        | 1319          | 1231            |
| Parent still living and has half- or step-siblings   | Yes                  | 12          | 25               | 28             | 17                  | 18             | 0        | 232           | 255             |
|  | No                   | 14          | 23               | 23             | 13                  | 26             | 1        | 1293          | 1267            |
| Has full-siblings                                    | Yes                  | 14          | 23               | 24             | 13                  | 25             | 1        | 1299          | 1283            |
|  | No                   | 15          | 22               | 26             | 13                  | 24             | 1        | 226           | 239             |
| <b>Total</b>   |                      | <b>14</b>   | <b>23</b>        | <b>24</b>      | <b>13</b>           | <b>25</b>      | <b>1</b> | <b>1525</b>   | <b>1522</b>     |

Base: Adults in England & Wales aged 16+ Source: NatCen Omnibus Quarters 3 & 4 2009

1 Excludes respondents in their first marriage who claim to have children from previous relationships - see Appendix A

2 Defined as those whose spouse or partner has children from a previous relationship or those who have step-children - see Appendix A

## Scenario 6: Man and partner lived together for 2 years with no children

Man and partner lived together for 2 years with no children, man dies

|  |                      | All to partner | Priority to partner | Shared equally | Priority to parents | All to parents | Weighted base | Unweighted base |
|--|----------------------|----------------|---------------------|----------------|---------------------|----------------|---------------|-----------------|
|  |                      | %              | %                   | %              | %                   | %              | %             |                 |
| Sex  | Male                 | 34             | 17                  | 24             | 13                  | 11             | 735           | 678             |
|  | Female               | 31             | 16                  | 23             | 16                  | 14             | 766           | 820             |
| Banded age   | 16 to 24             | 14             | 12                  | 28             | 26                  | 20             | 228           | 131             |
|  | 25 to 34             | 24             | 14                  | 21             | 20                  | 20             | 244           | 257             |
|  | 35 to 44             | 35             | 16                  | 21             | 14                  | 14             | 283           | 286             |
|  | 45 to 54             | 41             | 22                  | 23             | 6                   | 8              | 247           | 243             |
|  | 55 to 64             | 42             | 16                  | 21             | 13                  | 7              | 225           | 245             |
|  | 65 to 74             | 41             | 17                  | 25             | 9                   | 9              | 150           | 202             |
|  | 75 or more           | 32             | 20                  | 31             | 8                   | 9              | 124           | 134             |
| Marital status                                       | Married - second+    | 46             | 15                  | 17             | 11                  | 11             | 164           | 186             |
|  | Married - first      | 38             | 19                  | 23             | 11                  | 10             | 599           | 499             |
|  | Cohabiting           | 34             | 15                  | 22             | 17                  | 12             | 183           | 236             |
|  | Single               | 17             | 13                  | 29             | 22                  | 20             | 347           | 282             |
|  | Widowed              | 28             | 23                  | 23             | 15                  | 11             | 87            | 125             |
|  | Divorced             | 36             | 15                  | 27             | 13                  | 9              | 83            | 125             |
|  | Separated            | -              | -                   | -              | -                   | -              | 32            | 42              |
|  | Same sex couple      | -              | -                   | -              | -                   | -              | 2             | 2               |
| If ever been divorced                                | Yes                  | 36             | 18                  | 23             | 13                  | 10             | 440           | 575             |
|  | No                   | 31             | 16                  | 24             | 15                  | 14             | 1060          | 923             |
| Financial value of all property                      | Up to £10,000        | 22             | 12                  | 28             | 19                  | 19             | 412           | 374             |
|  | £10,000 to £100,000  | 31             | 19                  | 24             | 15                  | 11             | 299           | 337             |
|  | £100,000 to £200,000 | 38             | 19                  | 18             | 12                  | 12             | 288           | 305             |
|  | £200,000 to £500,000 | 36             | 19                  | 22             | 13                  | 11             | 282           | 272             |
|  | Over £500,000        | 43             | 10                  | 26             | 14                  | 7              | 90            | 90              |
| Whether made a will                                  | Yes                  | 40             | 19                  | 22             | 10                  | 10             | 553           | 600             |
|  | No                   | 29             | 15                  | 25             | 17                  | 14             | 946           | 896             |
| Has children from previous relationship <sup>1</sup> | Yes                  | 38             | 16                  | 23             | 9                   | 14             | 339           | 453             |
|  | No                   | 31             | 17                  | 24             | 16                  | 12             | 1162          | 1045            |
| Has step-children <sup>2</sup>                       | Yes                  | 44             | 16                  | 21             | 10                  | 10             | 204           | 288             |
|  | No                   | 31             | 17                  | 24             | 15                  | 13             | 1296          | 1210            |
| Parent still living and has half- or step-siblings   | Yes                  | 20             | 13                  | 25             | 21                  | 20             | 231           | 254             |
|  | No                   | 35             | 17                  | 23             | 13                  | 11             | 1269          | 1244            |
| Has full-siblings                                    | Yes                  | 32             | 17                  | 23             | 14                  | 13             | 1284          | 1271            |
|  | No                   | 33             | 16                  | 27             | 14                  | 9              | 217           | 227             |
| <b>Total</b>   |                      | <b>33</b>      | <b>17</b>           | <b>24</b>      | <b>14</b>           | <b>13</b>      | <b>1501</b>   | <b>1498</b>     |

Base: Adults in England & Wales aged 16+ Source: NatCen Omnibus Quarters 3 & 4 2009

1 Excludes respondents in their first marriage who claim to have children from previous relationships - see Appendix A

2 Defined as those whose spouse or partner has children from a previous relationship or those who have step-children - see Appendix A

## Scenario 7: Man and partner lived together for 5 years with no children

Man and partner lived together for 5 years with no children, man dies

|  |                      | All to partner | Priority to partner | Shared equally | Priority to parents | All to parents | Weighted base | Unweighted base |
|--|----------------------|----------------|---------------------|----------------|---------------------|----------------|---------------|-----------------|
|  |                      | %              | %                   | %              | %                   | %              | %             |                 |
| Sex  | Male                 | 45             | 21                  | 20             | 8                   | 6              | 739           | 682             |
|  | Female               | 40             | 22                  | 24             | 10                  | 5              | 772           | 825             |
| Banded age   | 16 to 24             | 21             | 26                  | 34             | 13                  | 6              | 228           | 131             |
|  | 25 to 34             | 37             | 21                  | 22             | 13                  | 8              | 245           | 257             |
|  | 35 to 44             | 42             | 19                  | 20             | 13                  | 7              | 285           | 289             |
|  | 45 to 54             | 55             | 22                  | 16             | 4                   | 3              | 251           | 246             |
|  | 55 to 64             | 54             | 20                  | 20             | 3                   | 3              | 222           | 243             |
|  | 65 to 74             | 52             | 20                  | 18             | 5                   | 5              | 151           | 203             |
|  | 75 or more           | 40             | 25                  | 25             | 6                   | 5              | 128           | 138             |
| Marital status                                       | Married - second+    | 59             | 14                  | 12             | 8                   | 6              | 161           | 183             |
|  | Married - first      | 48             | 22                  | 19             | 7                   | 4              | 608           | 506             |
|  | Cohabiting           | 46             | 19                  | 24             | 8                   | 3              | 182           | 235             |
|  | Single               | 26             | 24                  | 30             | 13                  | 6              | 347           | 282             |
|  | Widowed              | 43             | 24                  | 20             | 8                   | 5              | 91            | 130             |
|  | Divorced             | 44             | 19                  | 22             | 10                  | 5              | 84            | 126             |
|  | Separated            | -              | -                   | -              | -                   | -              | 32            | 42              |
|  | Same sex couple      | -              | -                   | -              | -                   | -              | 2             | 2               |
| If ever been divorced                                | Yes                  | 47             | 20                  | 19             | 8                   | 6              | 441           | 578             |
|  | No                   | 41             | 22                  | 23             | 9                   | 5              | 1069          | 929             |
| Financial value of all property                      | Up to £10,000        | 32             | 19                  | 30             | 11                  | 7              | 413           | 375             |
|  | £10,000 to £100,000  | 44             | 22                  | 22             | 8                   | 3              | 301           | 339             |
|  | £100,000 to £200,000 | 48             | 22                  | 15             | 9                   | 5              | 290           | 307             |
|  | £200,000 to £500,000 | 48             | 22                  | 18             | 7                   | 5              | 287           | 275             |
|  | Over £500,000        | 48             | 22                  | 17             | 8                   | 5              | 89            | 89              |
| Whether made a will                                  | Yes                  | 51             | 23                  | 18             | 5                   | 4              | 559           | 604             |
|  | No                   | 38             | 21                  | 24             | 11                  | 6              | 950           | 901             |
| Has children from previous relationship <sup>1</sup> | Yes                  | 47             | 18                  | 21             | 8                   | 7              | 336           | 451             |
|  | No                   | 42             | 22                  | 22             | 9                   | 5              | 1174          | 1056            |
| Has step-children <sup>2</sup>                       | Yes                  | 53             | 18                  | 18             | 7                   | 3              | 204           | 288             |
|  | No                   | 41             | 22                  | 22             | 9                   | 6              | 1306          | 1219            |
| Parent still living and has half- or step-siblings   | Yes                  | 32             | 18                  | 30             | 15                  | 5              | 232           | 255             |
|  | No                   | 45             | 22                  | 20             | 8                   | 5              | 1278          | 1252            |
| Has full-siblings                                    | Yes                  | 43             | 21                  | 22             | 9                   | 6              | 1291          | 1276            |
|  | No                   | 43             | 23                  | 21             | 9                   | 4              | 219           | 231             |
| <b>Total</b>   |                      | <b>43</b>      | <b>21</b>           | <b>22</b>      | <b>9</b>            | <b>5</b>       | <b>1510</b>   | <b>1507</b>     |

Base: Adults in England & Wales aged 16+ Source: NatCen Omnibus Quarters 3 & 4 2009

1 Excludes respondents in their first marriage who claim to have children from previous relationships - see Appendix A

2 Defined as those whose spouse or partner has children from a previous relationship or those who have step-children - see Appendix A

## Scenario 8: Man and partner lived together for 10 years with no children

Man and partner lived together for 10 years with no children, man dies

|  |                      | All to partner | Priority to partner | Shared equally | Priority to parents | All to parents | Weighted base | Unweighted base |
|--|----------------------|----------------|---------------------|----------------|---------------------|----------------|---------------|-----------------|
|  |                      | %              | %                   | %              | %                   | %              | %             |                 |
| Sex  | Male                 | 55             | 19                  | 17             | 4                   | 4              | 740           | 683             |
|  | Female               | 50             | 23                  | 20             | 4                   | 2              | 774           | 829             |
| Banded age   | 16 to 24             | 27             | 30                  | 35             | 5                   | 3              | 228           | 131             |
|  | 25 to 34             | 43             | 23                  | 22             | 7                   | 4              | 245           | 257             |
|  | 35 to 44             | 53             | 19                  | 17             | 8                   | 4              | 286           | 290             |
|  | 45 to 54             | 68             | 17                  | 12             | 2                   | 1              | 251           | 246             |
|  | 55 to 64             | 67             | 18                  | 12             | 1                   | 1              | 224           | 246             |
|  | 65 to 74             | 61             | 19                  | 14             | 2                   | 4              | 151           | 204             |
|  | 75 or more           | 50             | 25                  | 20             | 3                   | 3              | 127           | 138             |
| Marital status                                       | Married - second+    | 68             | 16                  | 11             | 2                   | 3              | 162           | 184             |
|  | Married - first      | 59             | 21                  | 14             | 4                   | 2              | 610           | 508             |
|  | Cohabiting           | 53             | 22                  | 18             | 4                   | 2              | 182           | 235             |
|  | Single               | 33             | 25                  | 31             | 6                   | 4              | 347           | 282             |
|  | Widowed              | 59             | 20                  | 15             | 2                   | 3              | 90            | 130             |
|  | Divorced             | 57             | 18                  | 19             | 4                   | 2              | 84            | 127             |
|  | Separated            | -              | -                   | -              | -                   | -              | 33            | 43              |
|  | Same sex couple      | -              | -                   | -              | -                   | -              | 2             | 2               |
| If ever been divorced                                | Yes                  | 60             | 18                  | 16             | 4                   | 2              | 443           | 581             |
|  | No                   | 50             | 23                  | 20             | 5                   | 3              | 1071          | 931             |
| Financial value of all property                      | Up to £10,000        | 38             | 24                  | 27             | 7                   | 3              | 413           | 375             |
|  | £10,000 to £100,000  | 55             | 22                  | 19             | 2                   | 2              | 301           | 339             |
|  | £100,000 to £200,000 | 61             | 20                  | 13             | 3                   | 3              | 291           | 309             |
|  | £200,000 to £500,000 | 60             | 19                  | 14             | 5                   | 3              | 287           | 275             |
|  | Over £500,000        | 57             | 23                  | 13             | 2                   | 4              | 90            | 90              |
| Whether made a will                                  | Yes                  | 62             | 19                  | 15             | 1                   | 2              | 561           | 607             |
|  | No                   | 47             | 22                  | 21             | 6                   | 3              | 952           | 903             |
| Has children from previous relationship <sup>1</sup> | Yes                  | 57             | 18                  | 19             | 2                   | 4              | 338           | 454             |
|  | No                   | 51             | 22                  | 19             | 5                   | 3              | 1176          | 1058            |
| Has step-children <sup>2</sup>                       | Yes                  | 64             | 18                  | 14             | 3                   | 1              | 205           | 289             |
|  | No                   | 51             | 22                  | 20             | 5                   | 3              | 1309          | 1223            |
| Parent still living and has half- or step-siblings   | Yes                  | 39             | 25                  | 28             | 6                   | 1              | 232           | 255             |
|  | No                   | 55             | 21                  | 17             | 4                   | 3              | 1282          | 1257            |
| Has full-siblings                                    | Yes                  | 53             | 21                  | 19             | 4                   | 3              | 1293          | 1279            |
|  | No                   | 53             | 24                  | 16             | 5                   | 2              | 221           | 233             |
| <b>Total</b>   |                      | <b>53</b>      | <b>21</b>           | <b>19</b>      | <b>4</b>            | <b>3</b>       | <b>1514</b>   | <b>1512</b>     |

Base: Adults in England & Wales aged 16+ Source: NatCen Omnibus Quarters 3 & 4 2009

1 Excludes respondents in their first marriage who claim to have children from previous relationships - see Appendix A

2 Defined as those whose spouse or partner has children from a previous relationship or those who have step-children - see Appendix A

## Scenario 9: Man been married twice, survived by second wife plus grown up children from first marriage

Man been married twice, survived by second wife and children over 18 from first marriage

|  |                      | All to second wife | Priority to second wife | Shared equally | Priority to children from first marriage | All to children from first marriage | Other    | Weighted base | Unweighted base |
|--|----------------------|--------------------|-------------------------|----------------|--|-------------------------------------|----------|---------------|-----------------|
|  |                      | %                  | %                       | %              | %  | %                                   | %        |               |                 |
| Sex  | Male                 | 18                 | 31                      | 33             | 13                                       | 4                                   | 1        | 749           | 687             |
|  | Female               | 12                 | 32                      | 38             | 12                                       | 5                                   | 1        | 784           | 842             |
| Banded age   | 16 to 24             | 9                  | 22                      | 37             | 28                                       | 5                                   |          | 233           | 132             |
|  | 25 to 34             | 10                 | 24                      | 43             | 15                                       | 7                                   | 0        | 246           | 258             |
|  | 35 to 44             | 12                 | 35                      | 35             | 14                                       | 2                                   | 1        | 289           | 294             |
|  | 45 to 54             | 18                 | 39                      | 29             | 9  | 4                                   | 3        | 253           | 248             |
|  | 55 to 64             | 24                 | 31                      | 32             | 9  | 4                                   |          | 225           | 247             |
|  | 65 to 74             | 20                 | 33                      | 38             | 5  | 3                                   | 2        | 157           | 209             |
|  | 75 or more           | 17                 | 36                      | 36             | 2  | 7                                   | 2        | 131           | 141             |
| Marital status                                       | Married - second+    | 29                 | 33                      | 32             | 4  | 1                                   | 1        | 167           | 188             |
|  | Married - first      | 17                 | 35                      | 34             | 10                                       | 4                                   | 0        | 613           | 512             |
|  | Cohabiting           | 14                 | 29                      | 36             | 14                                       | 5                                   | 1        | 182           | 235             |
|  | Single               | 8                  | 24                      | 39             | 23                                       | 5                                   | 1        | 356           | 287             |
|  | Widowed              | 13                 | 32                      | 40             | 7  | 6                                   | 2        | 92            | 131             |
|  | Divorced             | 12                 | 38                      | 30             | 10                                       | 8                                   | 2        | 83            | 125             |
|  | Separated            | -                  | -                       | -              | -  | -                                   | -        | 36            | 48              |
|  | Same sex couple      | -                  | -                       | -              | -  | -                                   | -        | 2             | 2               |
| If ever been divorced                                | Yes                  | 19                 | 33                      | 33             | 8  | 5                                   | 2        | 453           | 591             |
|  | No                   | 14                 | 31                      | 37             | 14                                       | 4                                   | 1        | 1080          | 938             |
| Financial value of all property                      | Up to £10,000        | 12                 | 25                      | 37             | 19                                       | 7                                   | 0        | 419           | 379             |
|  | £10,000 to £100,000  | 15                 | 32                      | 32             | 15                                       | 4                                   | 1        | 304           | 342             |
|  | £100,000 to £200,000 | 19                 | 33                      | 33             | 11                                       | 3                                   | 1        | 293           | 311             |
|  | £200,000 to £500,000 | 15                 | 38                      | 37             | 8  | 2                                   | 0        | 289           | 278             |
|  | Over £500,000        | 12                 | 31                      | 48             | 4  | 2                                   | 3        | 93            | 91              |
| Whether made a will                                  | Yes                  | 18                 | 35                      | 36             | 7  | 3                                   | 1        | 569           | 615             |
|  | No                   | 14                 | 29                      | 35             | 16                                       | 5                                   | 1        | 963           | 912             |
| Has children from previous relationship <sup>1</sup> | Yes                  | 20                 | 29                      | 35             | 8  | 6                                   | 2        | 344           | 461             |
|  | No                   | 14                 | 32                      | 36             | 14                                       | 4                                   | 1        | 1189          | 1068            |
| Has step-children <sup>2</sup>                       | Yes                  | 26                 | 33                      | 28             | 9  | 3                                   | 1        | 207           | 292             |
|  | No                   | 14                 | 31                      | 37             | 13                                       | 5                                   | 1        | 1326          | 1237            |
| Parent still living and has half- or step-siblings   | Yes                  | 14                 | 29                      | 33             | 20                                       | 4                                   |          | 233           | 257             |
|  | No                   | 15                 | 32                      | 36             | 11                                       | 5                                   | 1        | 1300          | 1272            |
| Has full-siblings                                    | Yes                  | 15                 | 31                      | 36             | 12                                       | 5                                   | 1        | 1308          | 1291            |
|  | No                   | 16                 | 30                      | 33             | 14                                       | 4                                   | 2        | 225           | 238             |
| <b>Total</b>   |                      | <b>15</b>          | <b>31</b>               | <b>35</b>      | <b>13</b>                                | <b>5</b>                            | <b>1</b> | <b>1533</b>   | <b>1529</b>     |

Base: Adults in England & Wales aged 16+ Source: NatCen Omnibus Quarters 3 & 4 2009

1 Excludes respondents in their first marriage who claim to have children from previous relationships - see Appendix A

2 Defined as those whose spouse or partner has children from a previous relationship or those who have step-children - see Appendix A



## Scenario 10: Man been married twice, survived by second wife plus children under 10 from first marriage

### Man been married twice, survived by second wife and children under 10 from first marriage

|  |                      | All to second wife | Priority to second wife | Shared equally | Priority to children from first marriage | All to children from first marriage | Other    | Weighted base | Unweighted base |
|--|----------------------|--------------------|-------------------------|----------------|--|-------------------------------------|----------|---------------|-----------------|
|  |                      | %                  | %                       | %              | %  | %                                   | %        |               |                 |
| Sex  | Male                 | 14                 | 26                      | 34             | 19                                       | 5                                   | 2        | 749           | 688             |
|  | Female               | 8                  | 28                      | 34             | 23                                       | 6                                   | 1        | 780           | 836             |
| Banded age   | 16 to 24             | 7                  | 30                      | 24             | 33                                       | 5                                   | 0        | 233           | 132             |
|  | 25 to 34             | 9                  | 21                      | 37             | 25                                       | 7                                   | 1        | 244           | 256             |
|  | 35 to 44             | 7                  | 30                      | 36             | 21                                       | 4                                   | 1        | 289           | 294             |
|  | 45 to 54             | 13                 | 27                      | 35             | 17                                       | 5                                   | 3        | 254           | 249             |
|  | 55 to 64             | 17                 | 28                      | 29             | 18                                       | 6                                   | 1        | 224           | 245             |
|  | 65 to 74             | 12                 | 24                      | 43             | 13                                       | 4                                   | 3        | 158           | 210             |
|  | 75 or more           | 11                 | 32                      | 37             | 14                                       | 6                                   | 1        | 128           | 138             |
| Marital status                                       | Married - second+    | 18                 | 27                      | 37             | 12                                       | 3                                   | 3        | 165           | 186             |
|  | Married - first      | 11                 | 29                      | 35             | 18                                       | 5                                   | 1        | 613           | 511             |
|  | Cohabiting           | 11                 | 26                      | 35             | 22                                       | 5                                   | 1        | 182           | 235             |
|  | Single               | 7                  | 25                      | 29             | 30                                       | 7                                   | 2        | 355           | 286             |
|  | Widowed              | 11                 | 27                      | 39             | 17                                       | 4                                   | 2        | 91            | 130             |
|  | Divorced             | 10                 | 28                      | 33             | 18                                       | 7                                   | 4        | 84            | 125             |
|  | Separated            | -                  | -                       | -              | -  | -                                   | -        | 36            | 48              |
|  | Same sex couple      | -                  | -                       | -              | -  | -                                   | -        | 2             | 2               |
| If ever been divorced                                | Yes                  | 13                 | 27                      | 34             | 17                                       | 5                                   | 3        | 451           | 588             |
|  | No                   | 10                 | 27                      | 34             | 22                                       | 5                                   | 1        | 1079          | 936             |
| Financial value of all property                      | Up to £10,000        | 10                 | 26                      | 30             | 27                                       | 7                                   | 1        | 419           | 378             |
|  | £10,000 to £100,000  | 12                 | 24                      | 37             | 19                                       | 5                                   | 2        | 304           | 341             |
|  | £100,000 to £200,000 | 14                 | 27                      | 35             | 19                                       | 5                                   | 1        | 291           | 308             |
|  | £200,000 to £500,000 | 9                  | 32                      | 35             | 18                                       | 4                                   | 2        | 289           | 278             |
|  | Over £500,000        | 9                  | 25                      | 36             | 23                                       | 2                                   | 4        | 93            | 91              |
| Whether made a will                                  | Yes                  | 10                 | 29                      | 37             | 18                                       | 4                                   | 2        | 566           | 610             |
|  | No                   | 11                 | 26                      | 33             | 23                                       | 6                                   | 1        | 963           | 912             |
| Has children from previous relationship <sup>1</sup> | Yes                  | 14                 | 25                      | 33             | 18                                       | 6                                   | 4        | 343           | 459             |
|  | No                   | 10                 | 28                      | 34             | 22                                       | 5                                   | 1        | 1187          | 1065            |
| Has step-children <sup>2</sup>                       | Yes                  | 14                 | 31                      | 32             | 16                                       | 5                                   | 1        | 206           | 291             |
|  | No                   | 10                 | 27                      | 34             | 22                                       | 5                                   | 2        | 1323          | 1233            |
| Parent still living and has half- or step-siblings   | Yes                  | 10                 | 24                      | 31             | 27                                       | 6                                   | 1        | 232           | 255             |
|  | No                   | 11                 | 28                      | 34             | 20                                       | 5                                   | 2        | 1298          | 1269            |
| Has full-siblings                                    | Yes                  | 11                 | 27                      | 34             | 21                                       | 5                                   | 2        | 1305          | 1286            |
|  | No                   | 9                  | 28                      | 36             | 22                                       | 4                                   | 2        | 225           | 238             |
| <b>Total</b>   |                      | <b>11</b>          | <b>27</b>               | <b>34</b>      | <b>21</b>                                | <b>5</b>                            | <b>2</b> | <b>1530</b>   | <b>1524</b>     |

Base: Adults in England & Wales aged 16+ Source: NatCen Omnibus Quarters 3 & 4 2009

1 Excludes respondents in their first marriage who claim to have children from previous relationships - see Appendix A

2 Defined as those whose spouse or partner has children from a previous relationship or those who have step-children - see Appendix A

**Scenario 11: Man been married twice, survived by second wife plus children from both marriages**  
**Man been married twice, survived by second wife and children from both marriages**

|  |                      | All to<br>second<br>wife | Priority<br>to<br>children<br>from first<br>marriage | Shared<br>between<br>2nd wife<br>and<br>children<br>of first<br>marriage | Shared<br>between<br>2nd wife<br>and<br>children<br>of<br>second<br>marriage | All to<br>children<br>from both<br>marriages | Other    | Shared<br>equally | Weighted<br>base | Un-<br>weighted<br>base |
|--|----------------------|--------------------------|--|--|--|--|----------|-------------------|------------------|-------------------------|
|  |                      | %                        | %  | %  | %  | %  | %        | %                 |                  |                         |
| Sex  | Male                 | 19                       | 42   | 8  | 5  | 18   | 2        | 6                 | 744              | 683                     |
|  | Female               | 13                       | 47   | 6  | 4  | 20   | 1        | 9                 | 777              | 833                     |
| Banded age   | 16 to 24             | 6                        | 32   | 9  | 3  | 37   | 1        | 13                | 232              | 132                     |
|  | 25 to 34             | 12                       | 41   | 8  | 5  | 24   | 2        | 8                 | 244              | 257                     |
|  | 35 to 44             | 15                       | 51   | 6  | 6  | 13   | 1        | 8                 | 288              | 292                     |
|  | 45 to 54             | 21                       | 50   | 6  | 3  | 14   | 1        | 6                 | 254              | 248                     |
|  | 55 to 64             | 27                       | 47   | 6  | 3  | 12   | 1        | 5                 | 221              | 242                     |
|  | 65 to 74             | 21                       | 45   | 8  | 2  | 16   | 2        | 6                 | 157              | 209                     |
|  | 75 or more           | 13                       | 48   | 7  | 9  | 12   | 3        | 7                 | 126              | 136                     |
| Marital status                                       | Married - second+    | 31                       | 45   | 6  | 4  | 10   | 1        | 3                 | 162              | 184                     |
|  | Married - first      | 18                       | 48   | 7  | 3  | 15   | 1        | 7                 | 609              | 509                     |
|  | Cohabiting           | 13                       | 46   | 4  | 4  | 22   | 1        | 8                 | 183              | 235                     |
|  | Single               | 8                        | 37   | 8  | 4  | 30   | 1        | 11                | 353              | 284                     |
|  | Widowed              | 15                       | 46   | 9  | 8  | 10   | 1        | 11                | 90               | 128                     |
|  | Divorced             | 16                       | 43   | 5  | 8  | 21   | 1        | 6                 | 84               | 126                     |
|  | Separated            | -                        | -  | -  | -  | -  | -        | -                 | 35               | 47                      |
|  | Same sex couple      | -                        | -  | -  | -  | -  | -        | -                 | 2                | 2                       |
| If ever been divorced                                | Yes                  | 20                       | 47   | 6  | 6  | 14   | 1        | 5                 | 447              | 583                     |
|  | No                   | 15                       | 44   | 7  | 3  | 21   | 2        | 9                 | 1074             | 933                     |
| Financial value of all property                      | Up to £10,000        | 11                       | 37   | 8  | 6  | 27   | 2        | 10                | 419              | 379                     |
|  | £10,000 to £100,000  | 16                       | 46   | 5  | 3  | 23   | 1        | 6                 | 301              | 337                     |
|  | £100,000 to £200,000 | 23                       | 44   | 9  | 5  | 12   | 1        | 7                 | 291              | 308                     |
|  | £200,000 to £500,000 | 17                       | 55   | 5  | 3  | 13   | 1        | 6                 | 289              | 278                     |
|  | Over £500,000        | 17                       | 52   | 4  | 3  | 12   | 3        | 10                | 92               | 90                      |
| Whether made a will                                  | Yes                  | 19                       | 51   | 6  | 3  | 13   | 2        | 6                 | 561              | 607                     |
|  | No                   | 14                       | 41   | 7  | 5  | 22   | 1        | 8                 | 958              | 907                     |
| Has children from previous relationship <sup>1</sup> | Yes                  | 20                       | 43   | 6  | 6  | 18   | 2        | 5                 | 340              | 456                     |
|  | No                   | 15                       | 45   | 7  | 4  | 19   | 1        | 8                 | 1181             | 1060                    |
| Has step-children <sup>2</sup>                       | Yes                  | 28                       | 43   | 3  | 3  | 15   | 2        | 5                 | 206              | 290                     |
|  | No                   | 14                       | 45   | 7  | 4  | 19   | 1        | 8                 | 1316             | 1226                    |
| Parent still living and has half- or step-siblings   | Yes                  | 14                       | 40   | 8  | 3  | 24   | 2        | 8                 | 231              | 255                     |
|  | No                   | 17                       | 46   | 7  | 4  | 18   | 1        | 8                 | 1290             | 1261                    |
| Has full-siblings                                    | Yes                  | 17                       | 45   | 7  | 4  | 19   | 1        | 8                 | 1298             | 1280                    |
|  | No                   | 14                       | 46   | 6  | 8  | 17   | 2        | 7                 | 224              | 236                     |
| <b>Total</b>   |                      | <b>16</b>                | <b>45</b>  | <b>7</b>   | <b>4</b>   | <b>19</b>                                    | <b>1</b> | <b>8</b>          | <b>1521</b>      | <b>1516</b>             |

Base: Adults in England & Wales aged 16+ Source: NatCen Omnibus Quarters 3 & 4 2009

1 Excludes respondents in their first marriage who claim to have children from previous relationships - see Appendix A

2 Defined as those whose spouse or partner has children from a previous relationship or those who have step-children - see Appendix A

## Scenario 12a: Woman dies, survived by mother and brother

### Woman dies, survived by mother and brother (QInher.SCEN12A)

|  |  | All to mother | Priority to mother | Shared equally | Priority to brother | All to brother | Other    | Weighted base | Unweighted base |
|--|--|---------------|--------------------|----------------|---------------------|----------------|----------|---------------|-----------------|
|  |  | %             | %                  | %              | %                   | %              | %        |               |                 |
| Sex  | Male                                     | 21            | 19                 | 52             | 6                   | 1              | 1        | 381           | 342             |
|  | Female                                   | 22            | 21                 | 50             | 5                   | 1              | 1        | 371           | 407             |
| Banded age   | 16 to 24                                 | -             | -                  | -              | -                   | -              | -        | 117           | 66              |
|  | 25 to 34                                 | 26            | 21                 | 49             | 4                   | 1              |          | 112           | 122             |
|  | 35 to 44                                 | 19            | 25                 | 49             | 7                   |                | 0        | 161           | 149             |
|  | 45 to 54                                 | 19            | 21                 | 56             | 2                   | 1              | 1        | 123           | 127             |
|  | 55 to 64                                 | 21            | 17                 | 56             | 3                   | 1              | 2        | 100           | 109             |
|  | 65 to 74                                 | 20            | 21                 | 48             | 3                   | 7              | 1        | 81            | 112             |
|  | 75 or more                               | -             | -                  | -              | -                   | -              | -        | 57            | 64              |
| Marital status                                       | Married and have been married before     | 28            | 23                 | 46             | 2                   | 2              |          | 84            | 94              |
|  | Married but have not been married before | 19            | 23                 | 50             | 5                   | 1              | 1        | 310           | 257             |
|  | Cohabiting                               | 17            | 18                 | 60             | 3                   | 2              |          | 82            | 107             |
|  | Single                                   | 25            | 15                 | 50             | 10                  | 0              |          | 174           | 139             |
|  | Widowed                                  | -             | -                  | -              | -                   | -              | -        | 46            | 69              |
|  | Divorced                                 | -             | -                  | -              | -                   | -              | -        | 41            | 61              |
|  | Separated                                | -             | -                  | -              | -                   | -              | -        | 14            | 22              |
| If ever been divorced                                | Yes                                      | 24            | 21                 | 49             | 4                   | 2              | 1        | 222           | 295             |
|  | No                                       | 20            | 20                 | 52             | 6                   | 1              | 1        | 530           | 454             |
| Financial value of all property                      | Up to £10,000                            | 20            | 18                 | 52             | 10                  |                | 0        | 204           | 175             |
|  | Between £10,000 and £100,000             | 24            | 23                 | 46             | 5                   | 2              | 0        | 146           | 169             |
|  | Between £100,000 and £200,000            | 27            | 21                 | 49             | 1                   | 1              | 1        | 140           | 157             |
|  | Between £200,000 and £500,000            | 20            | 23                 | 51             | 3                   | 1              | 2        | 140           | 130             |
|  | Over £500,000                            | -             | -                  | -              | -                   | -              | -        | 43            | 42              |
| Whether made a will                                  | Yes                                      | 22            | 19                 | 52             | 4                   | 2              | 1        | 286           | 308             |
|  | No                                       | 21            | 21                 | 50             | 7                   | 1              | 0        | 465           | 441             |
| Has children from previous relationship <sup>1</sup> | Yes                                      | 22            | 22                 | 52             | 2                   | 2              | 1        | 164           | 221             |
|  | No                                       | 21            | 20                 | 51             | 7                   | 1              | 1        | 588           | 528             |
| Has step-children <sup>2</sup>                       | Yes                                      | 22            | 18                 | 56             | 4                   | 1              |          | 106           | 150             |
|  | No                                       | 21            | 20                 | 50             | 6                   | 1              | 1        | 646           | 599             |
| Parent still living and has half- or step-siblings   | Yes                                      | 23            | 13                 | 59             | 4                   |                | 1        | 114           | 121             |
|  | No                                       | 21            | 21                 | 49             | 6                   | 1              | 1        | 637           | 628             |
| Has full-siblings                                    | Yes                                      | 21            | 20                 | 51             | 6                   | 1              | 1        | 635           | 627             |
|  | No                                       | 24            | 21                 | 48             | 3                   | 1              | 2        | 116           | 122             |
| <b>Total</b>   |  | <b>21</b>     | <b>20</b>          | <b>51</b>      | <b>6</b>            | <b>1</b>       | <b>1</b> | <b>752</b>    | <b>749</b>      |

Base: Adults in England & Wales aged 16+ Source: NatCen Omnibus Quarters 3 & 4 2009

1 Excludes respondents in their first marriage who claim to have children from previous relationships - see Appendix A

2 Defined as those whose spouse or partner has children from a previous relationship or those who have step-children - see Appendix A

## Scenario 12b: Woman dies, survived by mother and sister

### Woman dies, survived by mother and sister (QInher.SCEN12B)

|  |  | All to mother | Priority to mother | Shared equally | Priority to sister | All to sister | Other    | Weighted base | Unweighted base |
|--|--|---------------|--------------------|----------------|--------------------|---------------|----------|---------------|-----------------|
|  |  | %             | %                  | %              | %                  | %             | %        |               |                 |
| Sex  | Male                                     | 19            | 22                 | 52             | 3                  | 3             | 1        | 368           | 345             |
|  | Female                                   | 15            | 23                 | 56             | 4                  | 2             | 1        | 408           | 429             |
| Banded age   | 16 to 24                                 | -             | -                  | -              | -                  | -             | -        | 115           | 66              |
|  | 25 to 34                                 | 18            | 24                 | 50             | 5                  | 3             |          | 131           | 134             |
|  | 35 to 44                                 | 15            | 23                 | 57             | 1                  | 2             | 2        | 127           | 143             |
|  | 45 to 54                                 | 22            | 15                 | 60             | 3                  | 0             | 0        | 130           | 120             |
|  | 55 to 64                                 | 19            | 26                 | 47             | 3                  | 4             | 2        | 124           | 137             |
|  | 65 to 74                                 | 21            | 18                 | 54             | 4                  | 2             | 2        | 77            | 99              |
|  | 75 or more                               | 12            | 28                 | 49             | 6                  | 4             | 1        | 72            | 75              |
| Marital status                                       | Married and have been married before     | 14            | 24                 | 57             | 1                  | 4             | 1        | 81            | 93              |
|  | Married but have not been married before | 19            | 27                 | 49             | 3                  | 1             | 1        | 302           | 254             |
|  | Cohabiting                               | 13            | 17                 | 63             | 2                  | 5             |          | 102           | 130             |
|  | Single                                   | 14            | 20                 | 58             | 6                  | 3             |          | 178           | 143             |
|  | Widowed                                  | -             | -                  | -              | -                  | -             | -        | 43            | 60              |
|  | Divorced                                 | -             | -                  | -              | -                  | -             | -        | 43            | 65              |
|  | Separated                                | -             | -                  | -              | -                  | -             | -        | 22            | 26              |
|  | Same sex couple                          | -             | -                  | -              | -                  | -             | -        | 2             | 2               |
| If ever been divorced                                | Yes                                      | 14            | 20                 | 58             | 4                  | 2             | 1        | 228           | 293             |
|  | No                                       | 18            | 23                 | 52             | 4                  | 3             | 1        | 548           | 481             |
| Financial value of all property                      | Up to £10,000                            | 11            | 19                 | 63             | 4                  | 3             | 0        | 214           | 204             |
|  | Between £10,000 and £100,000             | 24            | 17                 | 52             | 3                  | 1             | 1        | 157           | 171             |
|  | Between £100,000 and £200,000            | 17            | 27                 | 50             | 4                  | 2             |          | 150           | 150             |
|  | Between £200,000 and £500,000            | 16            | 23                 | 55             | 2                  | 2             | 3        | 147           | 146             |
|  | Over £500,000                            | -             | -                  | -              | -                  | -             | -        | 51            | 50              |
| Whether made a will                                  | Yes                                      | 19            | 24                 | 51             | 4                  | 2             | 1        | 281           | 305             |
|  | No                                       | 16            | 22                 | 55             | 3                  | 3             | 1        | 494           | 467             |
| Has children from previous relationship <sup>1</sup> | Yes                                      | 14            | 17                 | 65             | 1                  | 2             | 1        | 178           | 238             |
|  | No                                       | 18            | 24                 | 51             | 4                  | 2             | 1        | 598           | 536             |
| Has step-children <sup>2</sup>                       | Yes                                      | 16            | 14                 | 61             | 4                  | 5             | 1        | 101           | 142             |
|  | No                                       | 17            | 24                 | 53             | 4                  | 2             | 1        | 675           | 632             |
| Parent still living and has half- or step-siblings   | Yes                                      | 19            | 13                 | 63             | 2                  | 2             | 1        | 117           | 133             |
|  | No                                       | 16            | 24                 | 52             | 4                  | 2             | 1        | 660           | 641             |
| Has full-siblings                                    | Yes                                      | 17            | 22                 | 54             | 4                  | 2             | 1        | 668           | 659             |
|  | No                                       | 17            | 24                 | 52             | 4                  | 2             | 0        | 108           | 115             |
| <b>Total</b>   |  | <b>17</b>     | <b>22</b>          | <b>54</b>      | <b>4</b>           | <b>2</b>      | <b>1</b> | <b>776</b>    | <b>774</b>      |

Base: Adults in England & Wales aged 16+ Source: NatCen Omnibus Quarters 3 & 4 2009

1 Excludes respondents in their first marriage who claim to have children from previous relationships - see Appendix A

2 Defined as those whose spouse or partner has children from a previous relationship or those who have step-children - see Appendix A

## Scenario 13: Man dies, survived by bother and half-sister

### Man dies, survived by brother and half-sister

|  |                      | All to brother | Priority to brother | Shared equally | Priority to half-sister | All to half-sister | Other    | Weighted base | Unweighted base |
|--|----------------------|----------------|---------------------|----------------|-------------------------|--------------------|----------|---------------|-----------------|
|  |                      | %              | %                   | %              | %                       | %                  | %        |               |                 |
| Sex  | Male                 | 23             | 34                  | 40             | 2                       | 0                  | 0        | 746           | 685             |
|  | Female               | 13             | 35                  | 49             | 1                       | 0                  | 1        | 774           | 834             |
| Banded age   | 16 to 24             | 20             | 32                  | 45             | 3                       |                    |          | 231           | 131             |
|  | 25 to 34             | 17             | 37                  | 44             | 1                       | 1                  | 0        | 245           | 258             |
|  | 35 to 44             | 16             | 32                  | 49             | 1                       |                    | 1        | 288           | 292             |
|  | 45 to 54             | 17             | 37                  | 43             | 1                       | 0                  | 1        | 249           | 245             |
|  | 55 to 64             | 20             | 35                  | 43             | 0                       |                    | 1        | 222           | 244             |
|  | 65 to 74             | 18             | 38                  | 43             |                         | 0                  | 1        | 156           | 209             |
|  | 75 or more           | 19             | 33                  | 44             | 2                       |                    | 2        | 128           | 140             |
| Marital status                                       | Married - second+    | 27             | 32                  | 40             |                         |                    | 1        | 164           | 186             |
|  | Married - first      | 15             | 39                  | 45             | 1                       |                    | 0        | 607           | 508             |
|  | Cohabiting           | 18             | 33                  | 47             | 0                       |                    | 1        | 183           | 236             |
|  | Single               | 21             | 32                  | 44             | 3                       | 1                  | 0        | 351           | 281             |
|  | Widowed              | 12             | 35                  | 49             | 3                       |                    | 1        | 92            | 133             |
|  | Divorced             | 14             | 33                  | 45             | 2                       | 1                  | 4        | 83            | 125             |
|  | Separated            | -              | -                   | -              | -                       | -                  | -        | 35            | 47              |
|  | Same sex couple      | -              | -                   | -              | -                       | -                  | -        | 2             | 2               |
| If ever been divorced                                | Yes                  | 19             | 33                  | 45             | 1                       | 0                  | 2        | 450           | 590             |
|  | No                   | 17             | 36                  | 45             | 1                       | 0                  | 0        | 1070          | 929             |
| Financial value of all property                      | Up to £10,000        | 16             | 36                  | 45             | 3                       | 1                  | 0        | 420           | 380             |
|  | £10,000 to £100,000  | 21             | 29                  | 48             | 1                       |                    | 1        | 301           | 338             |
|  | £100,000 to £200,000 | 19             | 32                  | 48             | 0                       | 0                  | 0        | 289           | 308             |
|  | £200,000 to £500,000 | 16             | 40                  | 40             | 1                       |                    | 2        | 285           | 275             |
|  | Over £500,000        | 22             | 38                  | 39             |                         |                    | 1        | 94            | 92              |
| Whether made a will                                  | Yes                  | 17             | 37                  | 44             | 1                       | 0                  | 1        | 564           | 612             |
|  | No                   | 18             | 33                  | 45             | 2                       | 0                  | 1        | 955           | 905             |
| Has children from previous relationship <sup>1</sup> | Yes                  | 19             | 32                  | 46             | 1                       | 0                  | 2        | 340           | 456             |
|  | No                   | 18             | 36                  | 45             | 1                       | 0                  | 1        | 1181          | 1063            |
| Has step-children <sup>2</sup>                       | Yes                  | 16             | 34                  | 49             |                         |                    | 1        | 207           | 292             |
|  | No                   | 18             | 35                  | 44             | 1                       | 0                  | 1        | 1314          | 1227            |
| Parent still living and has half- or step-siblings   | Yes                  | 18             | 25                  | 54             | 3                       |                    | 0        | 231           | 254             |
|  | No                   | 18             | 37                  | 43             | 1                       | 0                  | 1        | 1289          | 1265            |
| Has full-siblings                                    | Yes                  | 18             | 33                  | 46             | 1                       | 0                  | 1        | 1298          | 1283            |
|  | No                   | 16             | 44                  | 37             | 2                       |                    | 1        | 223           | 236             |
| <b>Total</b>   |                      | <b>18</b>      | <b>35</b>           | <b>45</b>      | <b>1</b>                | <b>0</b>           | <b>1</b> | <b>1521</b>   | <b>1519</b>     |

Base: Adults in England & Wales aged 16+ Source: NatCen Omnibus Quarters 3 & 4 2009

1 Excludes respondents in their first marriage who claim to have children from previous relationships - see Appendix A

2 Defined as those whose spouse or partner has children from a previous relationship or those who have step-children - see Appendix A

**Scenario 14: Woman dies, survived by sons 2 children and daughters 4 children**  
**Woman dies, survived by son s 2 children and daughter s 4 children**

|  |                      | Half to son's<br>two children<br>half to her<br>daughter's<br>two children | Equally<br>amongst<br>the six<br>children | Other    | Weighted<br>base | Unweighted<br>base |
|--|----------------------|--|---|----------|------------------|--------------------|
|  |                      | %  | %   | %        | %                | %                  |
| Sex  | Male                 | 9  | 91  | 1        | 751              | 690                |
|  | Female               | 7  | 93  | 0        | 783              | 841                |
| Banded age   | 16 to 24             | 10   | 87  | 2        | 232              | 132                |
|  | 25 to 34             | 7  | 93  |          | 245              | 257                |
|  | 35 to 44             | 7  | 93  | 0        | 289              | 294                |
|  | 45 to 54             | 7  | 93  | 0        | 254              | 249                |
|  | 55 to 64             | 7  | 92  | 1        | 226              | 248                |
|  | 65 to 74             | 6  | 94  |          | 156              | 208                |
|  | 75 or more           | 8  | 92  |          | 131              | 143                |
| Marital status                                       | Married - second+    | 9  | 91  | 0        | 166              | 188                |
|  | Married - first      | 7  | 93  |          | 613              | 512                |
|  | Cohabiting           | 7  | 93  |          | 183              | 236                |
|  | Single               | 10   | 89  | 1        | 354              | 285                |
|  | Widowed              | 5  | 95  |          | 93               | 133                |
|  | Divorced             | 5  | 94  | 2        | 84               | 126                |
|  | Separated            | -  | -   | 2        | 36               | 48                 |
|  | Same sex couple      | -  | -   |          | 2                | 2                  |
| If ever been divorced                                | Yes                  | 6  | 93  | 1        | 455              | 594                |
|  | No                   | 8  | 92  | 0        | 1079             | 937                |
| Financial value of all property                      | Up to £10,000        | 9  | 89  | 1        | 419              | 378                |
|  | £10,000 to £100,000  | 6  | 94  |          | 304              | 341                |
|  | £100,000 to £200,000 | 8  | 92  |          | 294              | 312                |
|  | £200,000 to £500,000 | 6  | 94  | 0        | 291              | 280                |
|  | Over £500,000        | 7  | 92  | 1        | 94               | 92                 |
| Whether made a will                                  | Yes                  | 5  | 95  |          | 570              | 617                |
|  | No                   | 9  | 90  | 1        | 963              | 912                |
| Has children from previous relationship <sup>1</sup> | Yes                  | 6  | 93  | 1        | 344              | 461                |
|  | No                   | 8  | 92  | 0        | 1190             | 1070               |
| Has step-children <sup>2</sup>                       | Yes                  | 4  | 96  | 0        | 208              | 294                |
|  | No                   | 8  | 91  | 1        | 1326             | 1237               |
| Parent still living and has half- or step-siblings   | Yes                  | 7  | 93  | 0        | 232              | 256                |
|  | No                   | 8  | 92  | 1        | 1302             | 1275               |
| Has full-siblings                                    | Yes                  | 7  | 92  | 1        | 1306             | 1290               |
|  | No                   | 9  | 91  | 0        | 228              | 241                |
| <b>Total</b>   |                      | <b>8</b>   | <b>92</b>                                 | <b>0</b> | <b>1534</b>      | <b>1531</b>        |

Base: Adults in England & Wales aged 16+ Source: NatCen Omnibus Quarters 3 & 4 2009

<sup>1</sup> Excludes respondents in their first marriage who claim to have children from previous relationships - see Appendix A

<sup>2</sup> Defined as those whose spouse or partner has children from a previous relationship or those who have step-children - see Appendix A

## Scenario 15: Woman dies, survived by her civil partner and her mother

### Civil partner dies, survived by her civil partner and her mother

|  |                      | All to civil partner | Priority to civil partner | Shared equally | Priority to mother | All to mother | Other    | Weighted base | Unweighted base |
|--|----------------------|----------------------|---------------------------|----------------|--------------------|---------------|----------|---------------|-----------------|
|  |                      | %                    | %                         | %              | %                  | %             | %        |               |                 |
| Sex  | Male                 | 46                   | 20                        | 21             | 5                  | 7             | 2        | 737           | 680             |
|  | Female               | 43                   | 23                        | 24             | 5                  | 5             | 1        | 774           | 828             |
| Banded age   | 16 to 24             | 28                   | 22                        | 33             | 8                  | 8             |          | 228           | 131             |
|  | 25 to 34             | 46                   | 26                        | 19             | 4                  | 3             | 2        | 245           | 257             |
|  | 35 to 44             | 44                   | 23                        | 21             | 7                  | 5             | 0        | 287           | 292             |
|  | 45 to 54             | 55                   | 19                        | 17             | 4                  | 4             | 1        | 254           | 248             |
|  | 55 to 64             | 52                   | 19                        | 19             | 1                  | 7             | 2        | 222           | 243             |
|  | 65 to 74             | 42                   | 19                        | 24             | 4                  | 10            | 2        | 152           | 204             |
|  | 75 or more           | 34                   | 21                        | 29             | 6                  | 9             | 1        | 124           | 133             |
| Marital status                                       | Married - second+    | 52                   | 15                        | 16             | 5                  | 10            | 1        | 163           | 184             |
|  | Married - first      | 49                   | 22                        | 18             | 5                  | 4             | 1        | 606           | 506             |
|  | Cohabiting           | 50                   | 20                        | 22             | 3                  | 5             |          | 183           | 236             |
|  | Single               | 30                   | 27                        | 29             | 6                  | 7             | 1        | 348           | 282             |
|  | Widowed              | 39                   | 16                        | 33             | 5                  | 6             |          | 89            | 127             |
|  | Divorced             | 46                   | 17                        | 21             | 2                  | 11            | 2        | 82            | 123             |
|  | Separated            | -                    | -                         | -              | -                  | -             | -        | 36            | 47              |
|  | Same sex couple      | -                    | -                         | -              | -                  | -             | -        | 2             | 2               |
| If ever been divorced                                | Yes                  | 45                   | 17                        | 25             | 4                  | 8             | 1        | 445           | 580             |
|  | No                   | 44                   | 23                        | 22             | 5                  | 5             | 1        | 1067          | 928             |
| Financial value of all property                      | Up to £10,000        | 34                   | 19                        | 32             | 6                  | 8             | 0        | 412           | 374             |
|  | £10,000 to £100,000  | 46                   | 22                        | 24             | 2                  | 5             | 0        | 302           | 338             |
|  | £100,000 to £200,000 | 55                   | 17                        | 18             | 5                  | 5             | 1        | 291           | 309             |
|  | £200,000 to £500,000 | 49                   | 25                        | 15             | 4                  | 5             | 2        | 285           | 274             |
|  | Over £500,000        | 48                   | 16                        | 18             | 8                  | 6             | 5        | 94            | 92              |
| Whether made a will                                  | Yes                  | 51                   | 21                        | 19             | 2                  | 6             | 2        | 559           | 605             |
|  | No                   | 40                   | 22                        | 25             | 6                  | 6             | 1        | 951           | 901             |
| Has children from previous relationship <sup>1</sup> | Yes                  | 44                   | 18                        | 25             | 3                  | 8             | 2        | 339           | 454             |
|  | No                   | 44                   | 22                        | 22             | 5                  | 5             | 1        | 1173          | 1054            |
| Has step-children <sup>2</sup>                       | Yes                  | 50                   | 18                        | 18             | 5                  | 8             | 1        | 205           | 289             |
|  | No                   | 43                   | 22                        | 23             | 5                  | 6             | 1        | 1306          | 1219            |
| Parent still living and has half- or step-siblings   | Yes                  | 39                   | 23                        | 26             | 5                  | 6             |          | 233           | 257             |
|  | No                   | 45                   | 21                        | 22             | 5                  | 6             | 1        | 1278          | 1251            |
| Has full-siblings                                    | Yes                  | 45                   | 21                        | 21             | 5                  | 6             | 1        | 1290          | 1275            |
|  | No                   | 36                   | 22                        | 31             | 4                  | 6             | 1        | 221           | 233             |
| <b>Total</b>   |                      | <b>44</b>            | <b>21</b>                 | <b>23</b>      | <b>5</b>           | <b>6</b>      | <b>1</b> | <b>1511</b>   | <b>1508</b>     |

Base: Adults in England & Wales aged 16+ Source: NatCen Omnibus Quarters 3 & 4 2009

1 Excludes respondents in their first marriage who claim to have children from previous relationships - see Appendix A

2 Defined as those whose spouse or partner has children from a previous relationship or those who have step-children - see Appendix A



# Appendix D Survey questionnaire

ASK ALL

IntrolH1

I would now like to ask you a few questions about your family background.

ASK IF LIVING WITH SPOUSE/PARTNER

OthChd1

Firstly, can I just check, do you and your (husband/wife/partner/civil partner) have any children together, either under or over 18, who do not live with you as part of this household?

Yes

No

ASK ALL

EvMarr

Can I just check, have you ever been married or had a civil partner (before now / in the past)?

Yes

No

ASK ALL

OthChd2

And can I just check, do you yourself have any children of your own, or step-children from any previous relationship?

Yes – children of own

Yes – step-children

No

NumPrch

ASK IF HAVE CHILDREN FROM PREVIOUS RELATIONSHIP (CODE 1 AT Q9)

Q10.How many?

AgePrch

ASK IF HAVE CHILDREN FROM PREVIOUS RELATIONSHIP (CODE 1 AT Q9)

Q11.And are these children...READ OUT...

...all aged under 18

all aged 18 or more

or are some older than 18 and some 18 and younger?

ASK IF LIVING WITH SPOUSE/PARTNER

OthChd3

And does your (husband/wife/partner/civil partner) have any children of their own or step-children from any previous relationships?

Yes – children of their own

Yes – step-children

No

ASK ALL

SHOWCARD

RELLIVE

Which, if any, of these relatives do you have who are still living?

INTERVIEWER: EXCLUDE HALF-SIBLINGS AND STEP-SIBLINGS

CODE ALL THAT APPLY

Father

Mother

Brother or sister

None of these

ASK ALL WITH BOTH FATHER AND MOTHER STILL LIVING

PARSEP

I would now like to ask you some questions about your parents.

Firstly, are your parents married and/or living together?

Yes

No

ASK ALL WITH BOTH FATHER AND MOTHER STILL LIVING

AND PARENTS NOT LIVING TOGETHER

PARREM1

Has either of them remarried or started living with a new partner?

Yes, Father

Yes, Mother

Yes, both

No, neither

ASK ALL WITH ONE PARENT STILL LIVING

PAREM2

Has he/she remarried or started living with a new partner?

Yes

No

ASK ALL WITH FATHER AND MOTHER OR ONE PARENT STILL LIVING

HALFSIB

Can you tell me, do you have any half-brothers or sisters, or step-brothers or sisters?

CODE ALL THAT APPLY

Yes - Half-brothers or sisters

Yes - Step-brothers or sisters

No

ASK ALL

Will

Have you yourself, made a formal will, that is a will that has been signed and witnessed?

Yes

No

ASK ALL

## SHOWCARD

### Assets

What would you say is the approximate total current value of all your money and property? By 'property' we mean all your money and possessions and any house you own, including your share of any joint property. Please deduct any mortgages or loans from the value of any property. Just read out the letter next to the answer that applies.

Y Up to £10,000

V Between £10,000 and £100,000

X Between £100,000 and £200,000

Z Between £200,000 and £500,000

W Over £500,000

## ASK IF MADE A WILL

### SHOWCARD

#### WILINC

Thinking about your will, who have you included in your will?

#### CODE ALL THAT APPLY

Spouse/civil partner or partner

Former spouse/civil partner or partner

Your own child/children

Your step-children from a previous relationship

Your spouse's/partner's/civil partner's child/children

Grandchild/grandchildren

Brothers/sisters

Other relatives (specify)

Friends

Organisation e.g. charity

Other (PLEASE SPECIFY)

Wilinco

What other relatives?

## ASK IF MADE A WILL

### SHOWCARD

#### WILALLOC

How have you allocated your property in your will?

All to spouse/ civil partner /partner if survives me, otherwise to children

All to spouse/ civil partner/ partner with no formal provision for children

All to children

Shared between spouse/ civil partner/ partner and children

Shared between spouse/ civil partner/ partner and others

Other (PLEASE SPECIFY)

Wilallo

How is it allocated?

## ASK IF HAS NOT MADE A WILL

### SHOWCARD

#### WILLFEEL

Which of the statements on this card best describes your feelings about making a will?

I intend to make a will

I do not think it is necessary

I have not really thought about it

## ASK IF HAS NOT MADE A WILL

### SHOWCARD

#### CODE ALL THAT APPLY

#### WILINCF

If you were to make a will now, who would you be likely to include in your will?

Spouse/civil partner or partner

Former spouse/civil partner or partner

Your own child/children (even if you do not have any at present)

Your spouse's/civil partner's /partner's child/children

Grandchild/grandchildren (even if you do not have any at present)

Brothers/sisters

Other relatives

Friends

Organisation e.g. charity

Other (PLEASE SPECIFY)

Wilincfo

Who else would you include?

## ASK IF HAS NOT MADE A WILL

### SHOWCARD

#### WILALOCF

If you were to make a will, how would you allocate your property?

All to spouse/civil partner if /partner survives me, otherwise to children

All to spouse/civil partner /partner, with no formal provision for children

All to children

Shared between spouse/civil partner /partner and children

Shared between spouse/civil partner /partner and others

Other (PLEASE SPECIFY)

Wilalocfo

How else would you allocate it?

## ASK ALL

### RECDTH {Q24}

Have you ever received anything on the death of another person?

Yes  
No

ASK IF HAS RECEIVED ANYTHING ON THE DEATH  
OF ANOTHER PERSON

RECVFROM

SHOWCARD

From whom did you receive this?

CODE ALL THAT APPLY

Spouse /civil partner or partner

Former spouse /civil partner or partner

Parent

Grandparent

Child/children

Brother/sister

Other relative (specify)

Friend

Other (PLEASE SPECIFY)

Recfrmo

Who was it received from?

ASK ALL

Explnt

And have you ever been expecting to inherit or receive  
something on the death of another person but did not do  
so?

Yes

No

### Scenarios

ASK ALL

IntrolH2

I am going to describe a number of situations where  
someone dies, and then ask you for your personal view  
of what should happen to their property. By 'property' I  
mean everything that is owned by the person who has  
died, including all their money and possessions and any  
house they own.

There are no right or wrong answers. We are not asking  
what the law is, but what you  
think it should be. The Law would have to be the same  
for everyone, regardless of their personal characteristics,  
so we just want your general view.

Please choose one answer to each question.

ASK ALL

SHOWCARD (Reversed)

SCEN1

So, first of all, suppose that a married woman dies  
without making a will. She is survived by her husband  
and her mother, but no children. What do you think  
should happen to her property, which includes the house  
that she and her husband lived in?

Remember that we just want you to say what you think  
as a general rule.

INTERVIEWER NOTE:

SOME OF THE ANSWERS ON THE SHOWCARDS  
ARE IN REVERSE ORDER TO THE SCREEN. PLEASE  
CODE CORRECTLY.

IF RESPONDENT SAYS IT DEPENDS ON THE  
PERSONAL CIRCUMSTANCES OR  
CHARACTERISTICS OF THE PEOPLE INVOLVED,  
REMIND THEM THAT WE JUST WANT THEIR  
GENERAL VIEW.

All to her husband

Shared between her husband and her mother, with  
priority to her husband

Shared equally between her husband and her mother

Shared between her husband and her mother, with  
priority to her mother

All to her mother

Other (please specify)

Scen1o

What should happen to her property?

ASK ALL

SHOWCARD (Reversed)

SCEN2

Suppose that a married man dies. He has not left a will.  
He is survived by his wife and their two children, both  
over 18. What do you think should happen to his  
property, which includes the house that he and his wife  
lived in?

INTERVIEWER NOTE:

SOME OF THE ANSWERS ON THE SHOWCARDS  
ARE IN REVERSE ORDER TO THE SCREEN. PLEASE  
CODE CORRECTLY.

IF RESPONDENT SAYS IT DEPENDS ON THE  
PERSONAL CIRCUMSTANCES OR  
CHARACTERISTICS OF THE PEOPLE INVOLVED,  
REMIND THEM THAT WE JUST WANT THEIR  
GENERAL VIEW.

All to his wife

Shared between his wife and their children over 18, with  
priority to his wife

Shared equally between his wife and the two children  
over 18

Shared between his wife and their two children over 18,  
with priority to the children

All to their two children over 18

Other (PLEASE SPECIFY)

Scen2o

What should happen to his property?

ASK ALL

SHOWCARD A11a/b(Reversed)

SCEN3 (Q27c).

Say the same man dies but this time he is survived by  
his wife and their two young children. Now what do you  
think should happen to his property?

INTERVIEWER NOTE:

SOME OF THE ANSWERS ON THE SHOWCARDS ARE IN REVERSE ORDER TO THE SCREEN. PLEASE CODE CORRECTLY.

IF RESPONDENT SAYS IT DEPENDS ON THE PERSONAL CIRCUMSTANCES OR CHARACTERISTICS OF THE PEOPLE INVOLVED, REMIND THEM THAT WE JUST WANT THEIR GENERAL VIEW.

All to his wife

Shared between his wife and a trust for his two young children with priority to his wife

Shared equally between his wife and a trust for his two young children

Shared between his wife and a trust for his two young children with priority to the children

All in trust for his two young children

Other (PLEASE SPECIFY)

Scen3o

What should happen to his property?

ASK ALL

SHOWCARD (Reversed)

SCEN4

Suppose that a woman and her partner have lived together for 25 years without being married and have two children over 18 together. The woman dies without making a will.

What do you think should happen to her property, which includes the house that she and her partner lived in?

INTERVIEWER NOTE:

SOME OF THE ANSWERS ON THE SHOWCARDS ARE IN REVERSE ORDER TO THE SCREEN. PLEASE CODE CORRECTLY.

IF RESPONDENT SAYS IT DEPENDS ON THE PERSONAL CIRCUMSTANCES OR CHARACTERISTICS OF THE PEOPLE INVOLVED, REMIND THEM THAT WE JUST WANT THEIR GENERAL VIEW.

All to the two children over 18

Shared between the children over 18 and her partner with priority to the children

Shared equally between the children over 18 and her partner

Shared between the children over 18 and her partner with priority to her partner

All to her partner

Other (PLEASE SPECIFY)

Scen4o

What should happen to her property?

ASK ALL

SHOWCARD (Reversed)

SCEN5

Suppose that a man and his partner have lived together for less than two years without being married and have a baby together. The man dies without leaving a will.

What do you think should happen to his property, which includes the house that he and his partner lived in?

INTERVIEWER NOTE:

SOME OF THE ANSWERS ON THE SHOWCARDS ARE IN REVERSE ORDER TO THE SCREEN. PLEASE CODE CORRECTLY.

IF RESPONDENT SAYS IT DEPENDS ON THE PERSONAL CIRCUMSTANCES OR CHARACTERISTICS OF THE PEOPLE INVOLVED, REMIND THEM THAT WE JUST WANT THEIR GENERAL VIEW.

All in a trust for the baby

Shared between a trust for the baby and his partner with priority to the baby

Shared equally between a trust for the baby and his partner

Shared between a trust for the baby and his partner with priority to his partner

All to his partner

Other (PLEASE SPECIFY)

Scen5o

What should happen to his property?

SPLIT SAMPLE – 50% VERSION A, 50% VERSION B, RANDOMLY ALLOCATED

ASK ALL VERSION A

SHOWCARD (Reversed)

SCEN6A

Suppose that a man and his partner have lived together for two years without being married. The man dies without making a will, survived by his parents and his partner, but no children. What do you think should happen to his property?

INTERVIEWER NOTE:

SOME OF THE ANSWERS ON THE SHOWCARDS ARE IN REVERSE ORDER TO THE SCREEN. PLEASE CODE CORRECTLY.

IF RESPONDENT SAYS IT DEPENDS ON THE PERSONAL CIRCUMSTANCES OR CHARACTERISTICS OF THE PEOPLE INVOLVED, REMIND THEM THAT WE JUST WANT THEIR GENERAL VIEW.

All to his partner

Shared between his partner and parents, with priority to the partner

Shared equally between his partner and parents

Shared between his partner and parents, with priority to the parents

All to his parents

ASK ALL VERSION A

SHOWCARD (Reversed)

SCEN7A

Say the man and his partner had lived together for five years?

INTERVIEWER NOTE:

SOME OF THE ANSWERS ON THE SHOWCARDS ARE IN REVERSE ORDER TO THE SCREEN. PLEASE CODE CORRECTLY.

IF RESPONDENT SAYS IT DEPENDS ON THE PERSONAL CIRCUMSTANCES OR CHARACTERISTICS OF THE PEOPLE INVOLVED,

REMIND THEM THAT WE JUST WANT THEIR  
GENERAL VIEW.

All to his partner

Shared between his partner and parents, with priority to  
the partner

Shared equally between his partner and parents

Shared between his partner and parents, with priority to  
the parents

All to his parents

ASK ALL VERSION A

SHOWCARD (Reversed)

SCEN8A

Say the man and his partner had lived together for ten  
years?

INTERVIEWER NOTE:

SOME OF THE ANSWERS ON THE SHOWCARDS  
ARE IN REVERSE ORDER TO THE SCREEN. PLEASE  
CODE CORRECTLY.

IF RESPONDENT SAYS IT DEPENDS ON THE  
PERSONAL CIRCUMSTANCES OR  
CHARACTERISTICS OF THE PEOPLE INVOLVED,  
REMIND THEM THAT WE JUST WANT THEIR  
GENERAL VIEW.

All to his partner

Shared between his partner and parents, with priority to  
the partner

Shared equally between his partner and parents

Shared between his partner and parents, with priority to  
the parents

All to his parents

ASK ALL VERSION B

SHOWCARD (Reversed)

SCEN8B

Suppose that a man and his partner have lived together  
for ten years without being married. The man dies  
without making a will, survived by his parents and his  
partner, but no children. What do you think should  
happen to his property?

INTERVIEWER NOTE:

SOME OF THE ANSWERS ON THE SHOWCARDS  
ARE IN REVERSE ORDER TO THE SCREEN. PLEASE  
CODE CORRECTLY.

IF RESPONDENT SAYS IT DEPENDS ON THE  
PERSONAL CIRCUMSTANCES OR  
CHARACTERISTICS OF THE PEOPLE INVOLVED,  
REMIND THEM THAT WE JUST WANT THEIR  
GENERAL VIEW.

All to his partner

Shared between his partner and parents, with priority to  
the partner

Shared equally between his partner and parents

Shared between his partner and parents, with priority to  
the parents

All to his parents

ASK ALL VERSION B

SHOWCARD (Reversed)

SCEN7B

Say the man and his partner had lived together for five  
years?

INTERVIEWER NOTE:

IF RESPONDENT SAYS IT DEPENDS ON THE  
PERSONAL CIRCUMSTANCES OR  
CHARACTERISTICS OF THE PEOPLE INVOLVED,  
REMIND THEM THAT WE JUST WANT THEIR  
GENERAL VIEW.

All to his partner

Shared between his partner and parents, with priority to  
the partner

Shared equally between his partner and parents

Shared between his partner and parents, with priority to  
the parents

All to his parents

ASK ALL VERSION B

SHOWCARD (Reversed)

SCEN6B

Say the man and his partner had lived together for two  
years?

INTERVIEWER NOTE:

SOME OF THE ANSWERS ON THE SHOWCARDS  
ARE IN REVERSE ORDER TO THE SCREEN. PLEASE  
CODE CORRECTLY.

IF RESPONDENT SAYS IT DEPENDS ON THE  
PERSONAL CIRCUMSTANCES OR  
CHARACTERISTICS OF THE PEOPLE INVOLVED,  
REMIND THEM THAT WE JUST WANT THEIR  
GENERAL VIEW.

All to his partner

Shared between his partner and parents, with priority to  
the partner

Shared equally between his partner and parents

Shared between his partner and parents, with priority to  
the parents

All to his parents

END OF SPILT SAMPLE

ASK ALL

SHOWCARD (Reversed)

SCEN9

Suppose a man dies without making a will. He has been  
married twice. He is survived by his second wife and two  
children over 18 from his first marriage.

In general, what do you think should happen to his  
property, which includes the house that he and his  
second wife lived in?

INTERVIEWER NOTE:

SOME OF THE ANSWERS ON THE SHOWCARDS ARE IN REVERSE ORDER TO THE SCREEN. PLEASE CODE CORRECTLY.

IF RESPONDENT SAYS IT DEPENDS ON THE PERSONAL CIRCUMSTANCES OR CHARACTERISTICS OF THE PEOPLE INVOLVED, REMIND THEM THAT WE JUST WANT THEIR GENERAL VIEW.

All to his second wife

Shared between his second wife and the children from his first marriage, with priority to his second wife

Shared equally between his second wife and the children from his first marriage

Shared between his second wife and the children from his first marriage, with priority to the children from his first marriage

All to the children from his first marriage

Other (PLEASE SPECIFY)

Scen9o

What should happen to his property?

ASK ALL

SHOWCARD (Reversed)

SCEN10

Say the children from his first marriage were both aged under 10.

What do you think should happen to his property?

INTERVIEWER NOTE:

SOME OF THE ANSWERS ON THE SHOWCARDS ARE IN REVERSE ORDER TO THE SCREEN. PLEASE CODE CORRECTLY.

IF RESPONDENT SAYS IT DEPENDS ON THE PERSONAL CIRCUMSTANCES OR CHARACTERISTICS OF THE PEOPLE INVOLVED, REMIND THEM THAT WE JUST WANT THEIR GENERAL VIEW.

Use other format?

All to his second wife

Shared between his second wife and the children from his first marriage, with priority to his second wife

Shared equally between his second wife and the children from his first marriage

Shared between his second wife and the children from his first marriage, with priority to the children from his first marriage

All in trust for the children from his first marriage

Other (PLEASE SPECIFY)

Scen10o

What should happen to his property?

ASK ALL

SHOWCARD (Reversed)

SCEN11

Say the man has children over 18 from both marriages.

What do you think should happen to his property?

All to his second wife

Shared between his second wife and all his children with priority to his second wife

Shared between his second wife and the children of his first marriage

Shared between his second wife and the children of his second marriage

All to his children from both marriages

Other (PLEASE SPECIFY)

SPLIT SAMPLE – 50% VERSION A, 50% VERSION B, RANDOMLY ALLOCATED

ASK ALL VERSION A

SHOWCARD (Reversed)

SCEN12A

Suppose that a woman dies without leaving a will. She is survived by her mother, and her brother. In general, what do you think should happen to her property?

INTERVIEWER NOTE:

SOME OF THE ANSWERS ON THE SHOWCARDS ARE IN REVERSE ORDER TO THE SCREEN. PLEASE CODE CORRECTLY.

IF RESPONDENT SAYS IT DEPENDS ON THE PERSONAL CIRCUMSTANCES OR CHARACTERISTICS OF THE PEOPLE INVOLVED, REMIND THEM THAT WE JUST WANT THEIR GENERAL VIEW.

All to her mother

Shared between her mother and brother, with priority to her mother

Shared equally between her mother and brother

Shared between her mother and brother, with priority to her brother

All to her brother

Other (PLEASE SPECIFY)

SPLIT SAMPLE – 50% VERSION A, 50% VERSION B, RANDOMLY ALLOCATED

ASK ALL VERSION B

SHOWCARD (Reversed)

SCEN12B

Suppose that a woman dies without leaving a will. She is survived by her mother, and her sister. In general, what do you think should happen to her property?

INTERVIEWER NOTE:

SOME OF THE ANSWERS ON THE SHOWCARDS ARE IN REVERSE ORDER TO THE SCREEN. PLEASE CODE CORRECTLY.

IF RESPONDENT SAYS IT DEPENDS ON THE PERSONAL CIRCUMSTANCES OR CHARACTERISTICS OF THE PEOPLE INVOLVED, REMIND THEM THAT WE JUST WANT THEIR GENERAL VIEW.

All to her mother

Shared between her mother and sister, with priority to her mother

Shared equally between her mother and sister

Shared between her mother and sister, with priority to her sister

All to her sister

Other (PLEASE SPECIFY)

Scen12bo

What should happen to her property?

END OF SPLIT SAMPLE

ASK ALL

SHOWCARD (Reversed)

SCEN13

Suppose that a man dies without making a will. He is survived only by a brother and a half-sister. What do you think should happen to his property?

Remember, we're just asking you to say what you think should happen in general.

ADD INTERVIEWER NOTE:

SOME OF THE ANSWERS ON THE SHOWCARDS ARE IN REVERSE ORDER TO THE SCREEN. PLEASE CODE CORRECTLY.

IF RESPONDENT SAYS IT DEPENDS ON THE PERSONAL CIRCUMSTANCES OR CHARACTERISTICS OF THE PEOPLE INVOLVED, REMIND THEM THAT WE JUST WANT THEIR GENERAL VIEW.

All to his brother

Shared between his brother and his half-sister, with priority to his brother

Shared equally between his brother and his half-sister

Shared between his brother and his half-sister, with priority to his half-sister

All to his half-sister

Other (PLEASE SPECIFY)

Scen13o

What should happen to his property?

ASK ALL

SHOWCARD (Reversed)

SCEN14.

Suppose that a woman dies without making a will. She had one son and one daughter, both of whom have died. She is survived by her son's two children and her daughter's four children.

What do you think should happen to her property?

ADD INTERVIEWER NOTE:

SOME OF THE ANSWERS ON THE SHOWCARDS ARE IN REVERSE ORDER TO THE SCREEN. PLEASE CODE CORRECTLY.

IF RESPONDENT SAYS IT DEPENDS ON THE PERSONAL CIRCUMSTANCES OR CHARACTERISTICS OF THE PEOPLE INVOLVED, REMIND THEM THAT WE JUST WANT THEIR GENERAL VIEW.

Half to her son's two children and the other half to her daughter's four children

Equally amongst the six children

Other (PLEASE SPECIFY)

Scen14o

What should happen to her property?

ASK ALL

SHOWCARD A22a/b(Reversed)

SCEN15

Suppose that a woman who was in a civil partnership dies without making a will. Civil partners are same-sex couples who have legally registered their partnership.

She is survived by her civil partner and her mother, but no children. What do you think should happen to her property, which includes the house that she and her civil partner lived in?

Remember that we just want you to say what you think as a general rule.

INTERVIEWER NOTE:

SOME OF THE ANSWERS ON THE SHOWCARDS ARE IN REVERSE ORDER TO THE SCREEN. PLEASE CODE CORRECTLY.

IF RESPONDENT SAYS IT DEPENDS ON THE PERSONAL CIRCUMSTANCES OR CHARACTERISTICS OF THE PEOPLE INVOLVED, REMIND THEM THAT WE JUST WANT THEIR GENERAL VIEW.

All to her civil partner

Shared between her civil partner and her mother, with priority to her civil partner

Shared equally between her civil partner and her mother

Shared between her civil partner and her mother, with priority to her mother

All to her mother

Other (please specify)

Scen15o

What should happen to her property?



# Appendix E Qualitative Sampling Approach

This appendix sets out the sampling strategy for the qualitative component of the study. It starts by summarising the broad aims of the qualitative component and the general approach to sampling used in order to contextualize the subsequent discussion of the specific criteria that we selected. It finishes by setting out the characteristics of achieved sample for each of the categories created by the sampling criteria.

## **The aims of the qualitative component and our sampling approach**

The overall aim of the qualitative component was to explore in-depth participants' views of what should happen to people's property when they die, both when they have made a will and when they have not. This work complemented the survey component of the study (which provided data on the prevalence of different views) by helping the research team to understand why people think as they do through identifying the range of factors that influence them. The key to doing this in a robust way that generates rich, explanatory data was to focus on trying to understand the underlying factors that play a role in shaping people's views rather than a narrower focus on trying to explain individual results of the survey data. The relationship between the survey component and qualitative component was an iterative one, with the survey helping to frame key issues to be explored in the qualitative research and informing the sampling strategy and then the analysis of the qualitative data enabling further exploration of the quantitative data.

The general approach to sampling within qualitative research is known as 'purposive' sampling. The idea behind purposive sampling is to generate a sample that contains as full a range of opinions and experiences as possible (ideally the full range contained in the parent population) so that they can be described in detail and the factors influencing differences identified. Unlike sampling within a quantitative context, therefore, the aim is not to select a 'representative sample', but one which reflects the range in the population. To do this a number of criteria are used to select participants. The criteria chosen should, of course, be relevant to the research questions in terms of generating a sample that contains diversity of relevant views and experiences. In general the criteria can consist of things that are expected to be associated with or lead to different views or experiences (such as gender) or that are indicative of different views or experiences (such as intervention outcome data), with the former often being a proxy for the latter.

In choosing criteria, a number of points need to be borne in mind. Firstly, it is only possible to focus on a limited number of criteria. This is because it is important to capture diversity within categories as well as between categories. People with similar views and experiences may have different reasons for holding those views or there may be different factors which have influenced their experiences. Secondly, when sampling using survey data, it is important to recognize that there is a 'read across' issue, in that there may have been an error in recording individuals' views in the survey, they may have changed their mind since the survey or they may simply give a different response when asked the same question in a different way by a different person.

## **The sampling criteria**

The most relevant dimensions of diversity are participants' views themselves: in other words, the inclusion of people who have different views allows the researchers to understand why they have different views. This means that the quantitative data is an ideal sampling frame, because it gives us a direct indication of people's views. However, as there are a limited number of participants,

care was taken in choosing which parts of the data were used as criteria so that the sampling strategy was coherent and allowed for diversity within categories as well as between categories.

In looking at the questions contained in the survey, six scenarios were identified that proposed simple, fundamental choices, rather than introducing a number of possible influences or complicating factors, and so seemed best to reflect the core issues of what the research was aiming to explore. They were also ones where there were relatively strong patterns of response. The scenarios were:

- Scenario 1 - Married woman survived by husband and mother
- Scenario 2 - Married man survived by wife and 2 children over 18
- Scenario 3 - Married man survived by wife and 2 children under 18
- Scenario 8 - Man and partner lived together for 10 years with no children
- Scenario 11 - Man married twice, survived by 2nd wife and children from both marriages
- Scenario 12 – Woman survived by husband and brother/sister

In considering the early results of the survey, it was considered that the most suitable way of categorizing these views was along a spectrum from 'conventional' to 'unconventional'. Using scenario 1 as an example, 'conventional' views were defined as those saying 'all to partner' or 'priority to partner' and 'unconventional' as 'all to/ priority to the mother'. Between these two views were those saying 'shared equally'. Applying this principle across all of the selected scenarios and combining them to categorise participants led to four key categories, defined in the following way:

1. Mainly conventional – at least 4 'conventional' views
2. Mainly sharing – at least 4 'shared equally' responses
3. At least two 'unconventional'
4. A mixture of 'conventional', 'unconventional' and 'shared equally' responses

The other key thread running through the scenarios was the presence of children from a single relationship or multiple relationships and the complexity this leads to in terms of will-making and intestacy. This meant that this too was likely to be a crucial factor in influencing the range of views and experiences people had. The survey captured this data on respondents. Combining this as a sampling criterion with the categorisation of people's views set out above nested them together. Our final achieved sample with respect to these characteristics is illustrated below:

**Table D1 Final achieved sample: primary criteria**

| N=30   | <i>Mainly conventional</i> | <i>Mainly sharing</i> | <i>At least two unconventional</i> | <i>Mixture</i> |
|--|----------------------------|-----------------------|------------------------------------|----------------|
| No children or with children from single relationships | 5                          | 4                     | 3                                  | 3              |
| With children from multiple relationships              | 4                          | 4                     | 4                                  | 3              |

The relatively small number of total participants meant that there was a limit to the potential diversity in each cell, however we still feel this provided a good balance across the sample and had a good chance of capturing a relevant range of diversity. We considered these our primary sampling criteria, as they were the most important ones in terms of capturing diversity. In addition

to these primary criteria, a number of secondary sampling criteria were considered important to help capture a diversity of views. As we felt these were less important, they were not interlocked with the primary criteria, but instead targets for them were set across the whole sample. Below is our achieved sample in relation to the secondary criteria:

**Table D2**Final achieved sample: secondary criteria

|   |           |
|---|-----------|
| <i>Parents with multiple relationships</i>        |           |
| Yes   | <b>4</b>  |
| No  | <b>15</b> |
| Unknown   | <b>11</b> |
| <i>Expected to receive inheritance but didn't</i> |           |
| Yes   | <b>9</b>  |
| No  | <b>21</b> |
| <i>Age</i>  |           |
| 16 to 34  | <b>11</b> |
| 35 to 64  | <b>11</b> |
| 65+   | <b>8</b>  |
| <i>Marital status</i>                             |           |
| Married   | <b>7</b>  |
| Cohabiting  | <b>3</b>  |
| Single  | <b>11</b> |
| Widowed   | <b>3</b>  |
| Divorced  | <b>3</b>  |
| Separated   | <b>3</b>  |
| <i>Value of property</i>                          |           |
| < £100,000  | <b>12</b> |
| £100,000 to £500,000                              | <b>11</b> |
| > £500,000  | <b>6</b>  |
| Unknown   | <b>1</b>  |

In addition to the primary and secondary criteria, there were a number of criteria across which we would expect diversity to occur naturally. Therefore, we did not set targets for these criteria, but monitored them so that we had a record at the end of the study. The monitoring criteria were gender, whether individuals had made a will and whether they had received anything on the death of another.

# Appendix F Qualitative Interview Topic Guide

## P6242 - Attitudes to the law of inheritance in the context of changing family structures

### Topic guide v2

[20/11/2009]

#### Research objective

The broad aim of the research is to explore views on what should happen to people's property when they die, both when they have made a will and when they have not.

The research objectives that the interviews will address are:

1. Map the reasons for, and views of the importance of, passing on wealth rather than using it during lifetime
2. Identify the principles that underlie people's decisions about who to pass on wealth to
3. Map the factors that affect how people decide how much different beneficiaries should get
4. Map the range of views on the ability to challenge wills
5. Map the range of views on what should happen where there is no will
6. Identify the principles that underlie who should be entitled where there is no will
7. Map the range of views on how an estate should be distributed and claims prioritised if no will

*As this is an inductive, exploratory study, we wish to encourage participants to discuss their attitudes in an open way without excluding issues which may be of importance to individual participants and the study as a whole. Therefore, unlike a survey questionnaire or semi-structured interview, the questioning will be responsive to participants' own contributions.*

*The following guide does not contain pre-set questions but rather lists the key themes and sub-themes to be explored with each group of participants. It does not always include follow-up questions like 'why', 'when', 'how', etc. as it is assumed that participants' contributions will be fully explored by the interviewer throughout in order to understand how and why certain attitudes arise. The order in which issues are addressed and the amount of time spent on different themes will vary between different groups although we will aim to focus on encouraging discussion around the key objectives of the study.*

## Introduction

*Aim: to introduce NatCen, explain the purpose of the interview and the research, confidentiality, interview practicalities, and help the participant adjust to the interview situation*

- Introduce self, NatCen (as independent research contractor)
- Explain that the study is being carried out by NatCen and Cardiff Law School and is following up respondents to the NatCen Topical Issues study with differing views on inheritance and different personal and family circumstances.
- The study will provide evidence for the Law Commission's review of the law of intestacy and family provision and is funded by the Nuffield Foundation.
- All information given in the interview is treated in the strictest confidence.
- We would like to record the interview so we have an accurate record of the discussion. The recording will be transcribed verbatim for analysis purposes.
- Both the recording and the transcript are stored securely and will not pass outside the research team
- We then analyse all the interviews and write a report for the Law Commission. No individuals will be identified in the report or any other publications generated by this study.
- Participation in the research is completely voluntary. If you do not wish to answer any questions, you are perfectly entitled not to do so.
- However, the interview is strictly confidential so please feel free to give your views. There are no right or wrong answers so you can say exactly what you think.
- A reminder that we will give you £25 as a thank you for your time and help.
- Any questions before we start

## 1. Background

*Aim: To obtain general details about the participant*

- Ask participants to provide some general details about themselves
  - Family circumstances
  - Composition of household
  - Employment situation

## 2. General views on inheritance and making a will

*Aim: To introduce some of the core concepts of the study by understanding the respondent's own experiences and attitudes towards inheritance and whether they have made a will*

- Whether respondent has made a will
- If a will has been made:
  - When this took place
  - What prompted this decision
  - Whether changes made to will
- If not made a will
  - Why not
  - Plans to make a will in the future
  - What would prompt them to make a will
- Perceptions on the importance of passing on wealth/assets
  - Why considered important
  - Influence of welfare of family
  - Influence of family traditions or other social norms
  - Any reasons not to pass on wealth
- Whether they have inherited anything themselves

- When this was and from whom
- Whether they expected this
- Influence of their views towards inheritance

### **3. Principles underlying their own attitudes towards inheritance and decisions about will-making**

*Aim: To explore the basis for individual's attitude towards the idea of inheritance and the factors that have affected the decisions they have made around making a will and what their will looks like if they have made one.*

- Who they would like to benefit from their own estate
  - Whether family members, friends, dependants, others
- How they made or would make this decision
  - What are the important factors  
*Type of relationships (family, friends, dependants etc)*  
*Nature and definition of relationships (blood, length, other commitments)*  
*Personal obligations*  
*Needs of others*  
*Expectations of others*
  - What they would leave to whom  
*How to distribute the estate amongst many parties*  
*Whether any particular items to particular individuals*
- Whether it is a difficult decision to make
  - Influence of their own feelings towards others
  - Influence of family circumstances
  - Concerns over the expectations of others
  - Influence of the size of the estate

### **4. Testamentary freedom and challenging wills**

*Aim: To explore views on testamentary freedom and the extent to which wills should be challenged. This should include an exploration of who should be able to challenge a will and in what circumstances.*

**Note: From this point on the discussion should not only be about the respondents circumstances but their views on other situations/scenarios**

- Whether people should have complete freedom to leave their estate to whoever or whatever they wish
  - Whether it matters who it is left to
  - Whether certain relations should always get a share

*Introduce vignette Scenario 1 - Vera*

- What are the circumstances in which a will could or should be challenged
  - Views on who should be able to challenge
  - Views on the factors that should be considered  
*Type and nature of relationship with the deceased*  
*Why certain relationships are considered more entitled to challenge*  
*Expectations of potential beneficiary's vs the wishes of the deceased*  
*If a surviving spouse is left worse off*  
*If people are made homeless as a result*

*If people suspect the motives of actual beneficiaries*

## **5. General views on cases of intestacy**

*Aim: To explore views on what should happen in cases of intestacy and what mechanisms should be used to make this happen i.e. whether there should be a fixed set of rules and the extent to which these should be able to be challenged.*

- Views on what should happen in cases of intestacy
  - Extent to which there should be clear rules about who inherits what
  - Whether circumstances in which someone always inherits certain items
  - How flexible the rules should be
  - Whether they can account for all circumstances
  - What the alternatives are to a set of rules
  - What sort of items should be challenged – family home, personal; possessions etc.

## **6. Underlying principles and factors determining entitlement in cases of intestacy**

*Aim: To explore views on who should be entitled to a share of someone's property and belongings when they die without making a will. This should include exploring the basis for these views and impact of different family structures on these views.*

**Note: Explore any inconsistency between earlier attitudes related to own position and hypothetical situations of intestacy**

**Note: Throughout these sub-sections explore which of these factors should be considered automatically as part of the rules and which should be considered when challenging the rules**

*Introduce other Vignette scenarios where necessary*

### Entitlement of spouses and partners

- Extent to which each of the following should be entitled to a share of an estate and why – explore reasons for any differences
  - Spouse
  - Civil partners
  - Spouse living apart
  - Cohabitants (with/without children)
- Whether this right should be automatic – i.e. are they a entitled always or sometimes
- If sometimes what (combination of) factors should be considered
  - Legal standing of relationship
  - Length of relationship
  - Dependence on the deceased
  - Living under the same roof as the deceased
  - Whether reasons for cohabitants not marrying is important
  - Any other factors
- Extent to which this is impacted upon by family circumstances
  - What if other family members with greater need
  - Whether children of different relationships



### Entitlement of descendants or others dependent upon the deceased

- Extent to which the following should be entitled to a share of an estate and why – explore reasons for any differences
  - Children from the relationship with deceased's current spouse
  - Children of the deceased from a previous relationship
  - Step-children from current or previous relationships
- Whether this right should be automatic – i.e. are they entitled always or sometimes
- If sometimes what (combination of) factors should be considered
  - Whether a blood relative to the deceased or not
  - Whether living with the deceased or not
  - Whether young or adult children
  - Whether dependent on the deceased
  - Relative financial need of different children
  - Whether descendant expects to inherit from their other parent
  - Whether other parent of children is receiving anything
- Extent to which this is impacted upon by family circumstances
  - What if spouse still alive
  - Whether children of different relationships
  - Whether children of different ages
  - What if there are many other potential beneficiaries

### Entitlement of other family members, friends or carers

- Extent to which the following should be entitled to a share of an estate and why – explore reasons for any differences
  - Parents
  - Siblings
  - Other relatives
  - Those that had cared for the deceased
- Whether this right should be automatic – i.e. are they entitled always or sometimes
- If sometimes what (combination of) factors should be considered
  - Whether a blood relative to the deceased or not
  - Nature of the relationship to the deceased
  - Relative financial need of different relatives/friends
  - Degree of dependence on the deceased
- Extent to which this is impacted upon by family circumstances
  - What if spouse or children still alive
  - What if there are many other potential beneficiaries

### If not covered: Other factors that determine entitlement of all above groups

- Impact of the size of the estate on who should be entitled
  - Whether size means more should be entitled to claim
- Extent to which where the estate was inherited from is a factors
  - Whether considered important to 'remain family' and what is meant by this
  - Impact of this on who should be entitled to what – family home, possessions with sentimental value, other assets
- Relative financial position of potential beneficiaries
  - Where beneficiaries is financially self-sufficient
  - Views on where rules may make someone worse off – e.g. homeless
  - Where deceased had previous obligation to provide for beneficiaries

- Whether previous living standards should be maintained
- Nature and type of relationship with the deceased
  - Impact of blood relations – keep in the family
  - What family means in this context – how widely understood
  - Impact of living under the same roof
  - Proximity of relations, frequency of contact
  - Nature of contact – how to determine a close relationship
  - Whether carried out previous caring duties

## **7. Distribution and prioritisation in cases of intestacy**

*Aim: To enable participants to consider how a limited pot of property and belongings should be split among those seen as entitled and explore views on how different relationships are prioritised in different family structures.*

*Final vignette scenarios are likely to be useful here*

- Given the limited pot of each estate, views on who should have priority and why
  - Spouse or partner
  - Children from current relationship
  - Children from previous relationship
- Circumstances in which certain beneficiaries should receive the entire estate
- Circumstances in which an estate should be shared
  - Who should share the estate
  - How it should be shared out
  - Factors that influence these views
  - Constraints on sharing
  - Impact of limited pot
  - Financial and emotional impacts of legal proceedings
- Views on how the family home should be dealt within different family circumstances
  - Whether should always go to the spouse
  - Whether should be shared with children
  - Whether intestacy rules or family provision should force someone to lose or have to see their home
- Views on the idea of a statutory legacy with a nominal value
  - Views on this principle, the amount and how made up
  - Whether should only be available to a spouse and/or cohabitant
  - Whether it should be able to be challenged
  - Whether it should be fixed – how kept up-to-date

## **8. Round up of discussion and closing**

*Aim: To discuss any other related issues that the respondent feels are important, reiterate confidentiality, outline the next steps of the research and provide details for further information.*

- Recap of overall attitudes to inheritance
  - Issues of most importance/significance to the respondent
  - Reflections on own situation in relation to discussion of other scenarios
  - Whether any other issues we have not discussed

|             |
|-------------|
| AND FINALLY |
|-------------|

- *Any questions for the interviewer*
- *Thank respondents for their time*
- *Reassure about confidentiality*
- *Ask permission to archive anonymised transcript at NatCen for research and teaching purposes*
- *Give them hand out with contact details*
- *Make incentive payments and obtain signed receipts*
- *Briefly outline next steps of the research*
- *Draw attention to NatCen contact details for ethical considerations*

# Appendix G Qualitative Vignettes

## P6242 – Vignettes for depths

*These are to be used flexibly within sections 5-7 of the topic guide although Vignette 1 has a set place in section 4. Every vignette and scenario is unlikely to be used in any one interview and the vignette's should be used to introduce different scenarios that set-up relevant sections of the topic guide or where respondents are finding it difficult to conceive of some more complicated scenarios.*

### *Vignette 1 – testamentary freedom and challenging wills*

| Narrative   | Variation 1  | Variation 2                                |
|---|--|--|
| Vera dies, aged 75  | -  | -  |
| She owns the family home worth £250,000   | -  | -  |
| Has savings of £50,000  | -  | -  |
| Has no spouse or children living  | Leaves two adult children who are independent but not well off; one cared for her whilst the other lived far away and rarely saw her | Leaves surviving husband aged 80           |
| Leaves entire estate to favourite charity in will   | -  | Her entire estate includes the family home |
| <i>To what extent should a will be challenged in each of these circumstances?<br/> Who should be able to challenge the will in each of these circumstances?<br/> To what extent should the needs of relatives be taken into account?<br/> To what extent should wishes of deceased be taken into account?</i> |  |  |

### *Vignette 2 – spouses/civil partners and cohabitants*

| Narrative   | Variation 1                    | Variation 2                    |
|---|--------------------------------|--------------------------------|
| Martha dies aged 35 and leaves behind Husband Ben after 4 years of marriage | Martha and Ben were cohabiting | Martha and Ben were cohabiting |
| Martha owned home outright worth £450,000                                   | -                              | -                              |
| Have joint savings and a share portfolio worth £40,000                      | -                              | -                              |

|  |   |                                 |
|--|---|---------------------------------|
| No children  | - | They have two children together |
| <p><i>What is the relative importance of type of spouse/partner relationship in deciding who should get what?</i></p> <p><i>What is the essence of these relationships that makes them more/less significant?</i></p> <p><i>What factors should we use to decide this – length of relationship, living-in, welfare of family members?</i></p> <p><i>How is this affected by the composition of the estate?</i></p> <p><i>When there are children involved, how should the estate be distributed?</i></p> |   |                                 |

### *Vignette 3 – children*

| Narrative   | Variation 1  | Variation 2   |
|---|--|---|
| Jack dies aged 50 and leaves behind wife Jill   | -  | -   |
| Joint home ownership<br>£250,000  | -  | Do not own home   |
| Jack's savings<br>account/share portfolio<br>£10,000  | -  | -   |
| Leaves two young children from the marriage   | Leaves two young children, one from Jack's previous relationship | Leaves two young children, one a step-child from his wife's former marriage |
| <p><i>Does it depend on whether the child is from the current marriage, whether they lived with the deceased or are dependent upon the deceased?</i></p> <p><i>Does it depend on whether the child is his own or a step-child?</i></p> <p><i>Does it depend on whether the current relationship is to a spouse or cohabitant?</i></p> <p><i>How do these circumstances affect who should be able to challenge the rules?</i></p> <p><i>What is the importance of relative financial need/situation?</i></p> <p><i>How do the different circumstances affect how estate should be distributed?</i></p> |  |   |

### *Vignette 4 – dependency*

| Narrative  | Variation 1                                       | Variation 2   |
|--|---|---|
| Jack dies aged 50 and leaves behind wife Jill        |   | -   |
| Joint home ownership<br>£250,000                     | -   | -   |
| Jack's savings<br>account/share portfolio<br>£10,000 | -   | -   |
| Leaves two young children from the marriage          | Leaves two adult children from the marriage, both | Leaves two adult children from the marriage, one of |

|  |             |                  |
|--|-------------|------------------|
|  | independent | whom is disabled |
|--|-------------|------------------|

# Appendix H Summary of current intestacy rules

This diagram summarises the way in which an estate is distributed under the intestacy rules among the surviving relatives of a person who has died intestate. It has been reproduced with the kind permission of the Law Commission.

