

## Factsheet 14

# Dealing with an estate

August 2021

### About this factsheet

When a person dies, somebody else must deal with their estate, collect in their money, property and possessions, pay any outstanding debts, and distribute the estate to those entitled to it.

This factsheet provides general information for personal representatives about how to carry out their duties. It includes information on what happens if someone has not left a will.

For information on making a will, see factsheet 7, *Making a will*.

This factsheet describes the situation in England and Wales. There are different rules for dealing with estates in Northern Ireland and Scotland. Please contact Age Scotland or Age NI for their version of this factsheet – see section titled Age UK for details.

Contact details for any organisation mentioned in this factsheet can be found in the *Useful organisations* section.

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## 1 Recent developments

The government increased the Statutory Legacy for estates where someone dies intestate from £250,000 to £270,000 on 6 February 2020.

## 2 Find out if there is a will

The money, possessions, and property of a deceased person are called their '*estate*'. If they left a will, this should specify how their estate is to be distributed. They may have left other guidance in a '*letter of wishes*'. Before doing anything else, look for their will and any accompanying letter of wishes.

If you cannot find a will in their home, check if you can find a certificate of deposit, which is sent if the will is kept by the Principal Registry of the Family Division. Even without a certificate of deposit, it is worth checking with the Registry to see if they hold the will.

If they died in a hospital or care home, check if the will was left with them. You can contact the person's solicitor, accountant, or bank to see if they hold the will.

The will may be registered with Certainty the National Will Register, the Law Society's endorsed provider of a national will register and will search service. You can pay for a search of wills registered on their database.

### 2.1 If there is no will

If the deceased person did not leave a valid will, they have died '*intestate*'. There are laws, known as intestacy rules, governing how their estate should be distributed. Unmarried or divorced partners normally do not inherit anything under intestacy rules. For more on the rules of intestacy, see section 9.

## 3 Dealing with the estate

### 3.1 If there is a will

The will should state who is responsible for dealing with the deceased's estate (the '*personal representative*'). Where there is a will, the personal representative is called an '*executor*'. There may be more than one executor named. The executor's role is to locate all assets, pay taxes and debts, and distribute remaining money, possessions and property in accordance with the instructions in the will. A person named in a will as someone who is to benefit from the estate is called a '*beneficiary*'.

If the will does not name an executor, or they cannot act for any reason, there is a strict order in which the beneficiaries of the will can apply to the Probate Registry to be '*administrators*'. If an executor does not wish to act, see section 8.6 for more information.

### 3.2 If there is no will

If there is no will, the personal representative is called an '*administrator*'. This is usually a close relative, in this order of priority: spouse or civil partner; children; parents; brothers or sisters; other relatives (depending on who is entitled to the estate). If any of these people die before the deceased, their children may apply.

An administrator will need to apply for a '*grant of representation*' before they have any authority to deal with an estate.

A grant of representation cannot be issued to someone under the age of 18. The partner of the deceased cannot apply if they were not married or in a civil partnership at the time of their death. If you are unsure whether you are entitled to apply, take legal advice, or complete and return the forms and the Probate Registry will let you know who can act.

### 3.3 How to apply for grant of representation

An executor is authorised by a will to administer an estate. An administrator must take out a grant of representation before they can take any steps to administer an estate.

A grant of representation is a formal document that names the person who has died, and the person or people who are authorised to administer the estate. Where there is a valid will, the grant of representation is called a '*grant of probate*'. Where there is no will, it is called '*grant of letters of administration*.'

You can make an application personally, but there are circumstances when it is advisable to take specialist legal advice. For more information about applying for a grant of representation, see section 7.

## 4 Things to think about if you do it yourself

Dealing with the administration of someone's estate can take many months, depending on the complexity of their affairs. If you think of doing it yourself, make sure you can cope with the demands on your time.

Whilst dealing with probate yourself can reduce costs, it means you must deal with a lot of paperwork and take on a lot of responsibility. If you do it yourself, you cannot cut any corners and are legally responsible for meeting all legitimate claims (including tax). If you fail to act correctly, you could be sued by one or more of the beneficiaries.

If you go ahead without a legal advisor, it is a good idea to look at the online guidance on the government website at [www.gov.uk/applying-for-probate](http://www.gov.uk/applying-for-probate)

## 4.1 What happens if you take responsibility?

As an executor or administrator, you are legally responsible for:

- collecting the assets
- paying all liabilities, including tax
- correctly distributing the estate.

As you are personally responsible for carrying out these steps correctly, simple precautions to avoid making any mistakes include advertising in a local newspaper for creditors (people who are owed money from the estate) so you are not liable to someone turning up years afterwards making a claim on the estate. If you are not confident doing this yourself, consider using a specialist.

## 4.2 Family relationships

Unfortunately, family disputes about who should take what assets, whether to sell assets quickly or hold out for a higher price do happen.

Using a legal professional can reduce the risk of a dispute arising.

## 4.3 When do you not need to apply for a grant of representation?

A grant of representation is almost always needed when the deceased's estate includes property or land held in their own name or jointly with another person as a '*tenant in common*' (when each owner has a distinct share that does not have to be passed to the other joint owner).

If the deceased's estate is worth less than £5,000, probate or letters of administration may not be needed. This is called a '*small estate*'.

To find out if assets can be obtained without a grant, you must write to each institution, e.g. bank, building society, etc informing them of the death of the owner and enclosing a copy of the death certificate.

You can ask for the bank to return the death certificate to you once they have added it to their records. Check what other evidence they require before they will release any assets. Take copies if you are asked to send any original documents.

Without a grant of representation, you may be asked by a bank or other financial institution to complete an indemnity form. This means you undertake to reimburse them if it is proved that someone had a stronger claim to the assets than you, for example a valid will is later found.

Depending on the requirements of the individual institutions involved, you may find it is more straightforward to obtain a grant of representation. This can also protect you from having to repay money if a person comes forward with a stronger claim on the assets at a later date. There is no Court fee if the estate is worth less than £5,000.

## 4.4 Complicated estates

There are circumstances when it is advisable to use a legal advisor with specialist experience in administering estates.

For example:

- the estate is over the Inheritance Tax threshold (£325,000 in 2021-22) and is not exempt
- there are doubts over the validity of the will
- there is no will, the deceased was married with children, and left an estate worth over £270,000
- dependants have been left out of the will but may have a claim for support from the estate
- the estate has complicated arrangements such as assets held in trust
- the estate is insolvent or there are doubts about solvency of the estate
- the estate includes foreign property
- the deceased was domiciled outside the UK for tax purposes.

## 4.5 Finding a legal specialist

Many solicitors' firms offer administration of estate services. However, you do not have to use a solicitor. There are other companies offering these services. Most banks offer services to deal with the administration of the estate, as do some Trust Corporations. You can search for a solicitor on the Law Society website or see factsheet 43, *Getting legal and financial advice* for more information.

## 4.6 How much do estate administration services cost?

Some probate specialists charge hourly rates, but others charge a flat fee which may be calculated according to the value of the estate. Most specialists charge VAT at 20 per cent on their fees. Some charge both an hourly rate and a flat fee. This does not necessarily mean they are more expensive. The important thing is to shop around and compare quotes.

You may wish to make enquiries with several specialists to find the type of service and cost that suits you best. There are other expenses (such as the cost of applying for the grant of probate) which also must be paid. All these costs and expenses are usually payable out of the estate.

Since 2018, law firms regulated by the Solicitors Regulation Authority (SRA) have been required to comply with rules about transparency in price and service. The rules require all regulated law firms and individual solicitors to publish information on the prices they charge for certain services, including undisputed probate and estate administration services. Most SRA-regulated law firms publish this information on their website so you can be sure of how much you will be paying and what for.

## 5 How to work out the value of an estate

If you are responsible for managing someone's affairs after they die, valuing their estate is one of the first things you must do.

Start with everything they owned at the date of death. This includes property, possessions and money, less everything they owed, such as mortgages, loans, and credit card bills.

### 5.1 Why you need to value the estate

You need to work out the estate's value for two reasons:

- to calculate the amount of Inheritance Tax, if any, that must be paid
- to arrange the distribution of the estate according to the will (or the intestacy rules if there is no will).

The value of the estate for tax reasons and the value for distribution reasons may not be the same.

### 5.2 How to value individual assets

You need to know the market value or realistic selling price of all the deceased's assets at the time of their death. This is likely to be the value the item may fetch if sold at auction or through a local paper.

For assets such as property or land, you should get a professional valuation. HM Revenue and Customs recommend having items over £500 professionally valued, as they can challenge valuations if they disagree with them.

### 5.3 Valuing jointly owned assets

When working out the value of the deceased's share of a jointly owned asset, you must find out how it was owned. Assets can include cars, houses, and pieces of land owned with other people.

They may have owned them:

- as '**joint tenants**', in which case:
  - they have equal rights to the whole property
  - the property automatically goes to the other owner(s) if they die
  - they cannot usually pass on ownership of the property in their will
- as '**tenants in common**', in which case:
  - they can own different shares of the property
  - the property does not automatically go to the other owner(s) if they die
  - they can pass on their share of the property in their will or through intestacy.



### 5.3.1 Not sure if land or property was jointly owned?

If you are not sure whether property or land is jointly owned, you can find out from the Land Registry for a small fee. This can be done online via the Government website: [www.gov.uk/government/organisations/land-registry](http://www.gov.uk/government/organisations/land-registry)

This shows the owners of registered property in England and Wales. If the property is not registered, you need to see the deeds.

The papers signed when the property was bought normally set out whether it is owned as joint tenants, or in separate percentage shares as tenants in common, if there are two or more names on the title.

### 5.3.2 Joint bank accounts

Joint bank accounts are nearly always held as '*joint tenants*'. The value to include in the estate, used to calculate the tax payable on the estate, is usually the amount in the account, divided by the number of owners.

Joint accounts almost always automatically pass to the survivor, regardless of:

- unequal ownership
- what the will says
- what the intestacy rules say.

Sometimes, if an account in joint names is held as trustees for another person (such as a child) or if money has been put into joint names for administrative purposes only, then care must be taken to ascertain what happens to that account when one party dies. For unmarried couples and other combinations of joint account holders, a greater degree of scrutiny is required.

### 5.3.3 Other joint assets

If the deceased person owned other assets jointly, you must work out:

- how the asset was held
- what proportion should be included in the estate.

## 5.4 What debts form part of the deceased's estate?

Outstanding debts or bills owed by the deceased at the date of death, such as credit card bills or loans, must be taken into account when valuing their estate. You can deduct a reasonable funeral bill. For debts owed jointly, including joint mortgages, joint credit cards, or joint loans, use the deceased's share of the amount outstanding.

It is a common misconception that a person's debts die with them. Care must be taken to ensure that all debts are identified and repaid either from the estate or from another source such as payment protection insurance.

## 5.5 What else forms part of the estate?

You must calculate the value of an estate, so HM Revenue & Customs can see whether Inheritance Tax is due. They need to know about certain gifts the deceased made in the seven years before their death. This includes information or circumstances that may affect the tax position of their estate, such as continuing benefits received from a trust.

## 5.6 What does not form part of the estate?

Life insurance money does not always form part of the estate as it can be '*written in trust*' or nominated to a specific recipient. Sometimes the insurance provider has specific rules governing who they will pay money to. The same can be true for death-in-service benefits if the person was employed when they died or pension lump sum benefits. These are often paid to one or more nominated beneficiaries.

You can ask the life insurance or pension provider whether you need to include the value of any such payments in your calculation of the value of the estate.

## 5.7 Information about the estate

You must provide the following information when applying for a grant of representation, in relation to the value of the estate:

- the value at the date of death of all assets owned by the deceased, including foreign assets
- details of any money owed to the deceased or to their estate
- debts owed, including tax (income tax and capital gains tax) due to HM Revenue and Customs and pension over payments
- details of gifts made up to seven years (sometimes 14 years) before the date of death, and
- whether the deceased was the beneficiary of any trusts.

Assets include the full market value of houses, flats or other property, the value of household goods, jewellery and belongings at the sum for which they could be sold, including assets held jointly with another person.

This enables you to find out if Inheritance Tax (IHT) is payable and if so, to make arrangements to pay it. If IHT is payable, it must be paid before a grant will be issued. You must make all reasonable enquiries to obtain this information. If the deceased's debts outweigh the value of the assets, seek legal advice.

If you are having problems finding out about the deceased bank accounts or other assets, see [www.ageuk.org.uk/information-advice/money-legal/debt-savings/how-to-trace-lost-money](http://www.ageuk.org.uk/information-advice/money-legal/debt-savings/how-to-trace-lost-money) for guidance.

You can report the estate value online at [www.gov.uk/valuing-estate-of-someone-who-died/tell-hmrc-estate-value](http://www.gov.uk/valuing-estate-of-someone-who-died/tell-hmrc-estate-value)

## 6 Inheritance tax

Inheritance Tax (IHT) of 40 per cent is payable on estates whose value exceeds a certain amount (or '*threshold*'). For the tax year 2021-22, the IHT threshold is £325,000.

Up to the threshold, the assets are taxed at nil, so this allowance is called the '*nil-rate band*'. If the estate value is less than £325,000, the remainder of the unused nil-rate band can be transferred to a spouse or civil partner. See section 6.2 for more information.

Someone leaving a home, or sale proceeds of a home, to direct descendants (children, grandchildren etc) is entitled to an additional nil-rate band of up to £175,000. See section 6.1 for more information.

The amount inherited by a spouse or civil partner is usually exempt from IHT under the spouse and civil partner exemption rules. The situation is more complex if the survivor is not resident in the UK for tax purposes.

Details of the estate are reported to HM Revenue & Customs so that they may calculate whether any IHT is payable. This is done by filing an IHT Account. The Account may be in long or short form depending on the size and nature of assets, and the identity of the beneficiaries.

Some estates may be classed as an '*excepted estate*' in which case, no IHT is payable. More information on excepted estates is at [www.gov.uk/hmrc-internal-manuals/inheritance-tax-manual/ihtm06011](http://www.gov.uk/hmrc-internal-manuals/inheritance-tax-manual/ihtm06011)

### Note

IHT is a complex area. It is advisable to seek independent legal advice in most cases if you think it will apply to your estate, or you are administering an estate and IHT might be payable.

### 6.1 Additional nil-rate band

An estate may be entitled to an additional nil-rate band, called the '*Residence nil-rate band*' (RNRB) if:

- the person dies on or after 6 April 2017
- they own a home, or a share of a home, that is included in their estate
- their direct descendants such as children or grandchildren inherit the home, or a share in it.

The maximum amount of the RNRB is £175,000 in 2021-22.

Any unused RNRB when someone dies can be transferred to the deceased person's spouse or civil partner's estate, even if the first person of the couple died before 6 April 2017.

If the first person in a couple died before 6 April 2017, their estate could not have used any RNRB (as it was not available) so 100 per cent of their RNRB is available for transfer, unless the value of their estate exceeded £2 million.

The home left to direct descendants does not need to be the home the person lived in with their spouse or civil partner to qualify for the RNRB or to transfer it. It can be any home as long as the surviving spouse or civil partner lived in it at some stage before they died and the home is included in their estate.

There is another threshold if someone sold or gave away a home after 7 July 2015, called a '*downsizing addition*', and rules for homes held in trust.

This is a very complex area of IHT and it is advisable to seek independent legal advice on claiming the RNRB if you think it applies to an estate that you are administering.

## 6.2 Transferring the Inheritance Tax nil-rate band

The IHT nil-rate band allowance is the value of assets in an estate on which IHT is taxed at nil. Assets over the nil-rate band are taxed at 40 per cent, unless an exemption or relief from IHT applies.

If part of a nil-rate band allowance is not used, the unused percentage can be transferred to a surviving spouse or civil partner's estate after their death. For example, 80 per cent of the nil-rate band is used on the death of the first spouse or civil partner and the remaining 20 per cent transfers to the estate of the surviving spouse or civil partner on their subsequent death. Both the nil-rate band and the additional residence nil-rate band can be transferred in this way.

### Example

Ahmed dies leaving £162,500 to his children and the rest of his estate to his wife Farah. He uses £162,500 (50 per cent) of his nil rate band allowance. Everything left to Farah is exempt from IHT under the spouse exemption rules.

When Farah dies, the unused percentage nil-rate band of Ahmed is added to her nil-rate band. Farah has a £325,000 allowance plus 50 per cent (£162,500) of Ahmed's unused nil-rate band. Her total allowance is £487,500. If her estate value is lower than this, no IHT is payable.

If someone outlives more than one spouse or civil partner, the unused nil-rate band of more than one deceased spouse or civil partner can be transferred, up to a maximum of an additional 100 per cent of the nil-rate band allowance applicable at time of the surviving spouse's death.

The transfer should be claimed within two years of the death of the surviving spouse or civil partner by their personal representatives using form IHT402 (or IHT217 for excepted estates).

As well as completing the forms, it is necessary to gather documentation about the value of the estate of the spouse or civil partner who died first to send to HM Revenue & Customs. This includes copies of the IHT account relating to their estate, their will (if any), grant of representation, marriage certificate and valuations of assets at the time that they died. It is a good idea to collect this information on the death of the first spouse, if you are a personal representative, and keep it safe and for use when the surviving spouse or civil partner dies.

### Example of Residence Nil-Rate Band transfer

If Ahmed died before 6 April 2017, his wife Farah can have 100 per cent of the unused residence nil-rate band transferred to her estate. If Farah dies during the financial year 2021-22, the total residence nil-rate band available to her estate is £350,000 (£175,000 plus 100 per cent of £175,000) if she leaves a home to her children. This is on top of the personal nil-rate band in the previous example of £487,500.

## 6.3 Gifts exempt from IHT

Gifts exceeding the value of £3,000 to an individual in any one year are called '*potentially exempt transfers*'. This is because the value of the gift does not leave the person's estate ('*become exempt*') until seven years from the date the gift was made.

If the person making the gift dies within seven years of the date of the gift, up to the whole value of the gift must be taken into account when valuing their estate when they die. It is essential to keep careful records of any large gifts as HM Revenue & Customs may ask the personal representatives for evidence that no such gifts have been made.

If gifts made within the seven years immediately before a person died add up to more than the nil-rate band allowance, there may be tax payable by the recipient of the gift. Any such gifts also use up the nil-rate band allowance first, which can mean that there is no remaining nil-rate band to apply to the rest of the deceased's estate.

Gifts of up to £3,000 in each tax year are exempt from IHT straight away under the annual gift allowance rules. Any unused annual gift allowance can be carried over for one year only. Small gifts to individuals of up to £250 each are also exempt, as are wedding or civil partnership gifts of up to £5,000 by each parent or step-parent, £2,500 by each grandparent or great-grandparent, or £1,000 by other people.

Some gifts from unused income are exempt, but this is a complex area of tax law so seek professional advice from a solicitor or an accountant.

Gifts to charities established in the United Kingdom, the main political parties, housing associations or for '*national purposes*', e.g. a museum or university, are exempt.

## 6.4 Relief from Inheritance Tax

There are some circumstances in which certain types of assets can be passed on free of IHT or with a reduced rate of IHT. These include some types of business assets, agricultural property, woodlands, and heritage assets. There are a number of criteria that need to be satisfied for these types of assets to attract relief from IHT so professional advice should be taken when administering an estate that contains this type of assets.

Some of the more unusual types of exemption from IHT relate to the circumstances in which a person died. If active service caused or contributed to the death of a member of the armed forces, their estate does not have to pay IHT.

The estate does not have to pay IHT if a person was helping in an emergency that caused or contributed to their death and was on-call or on-duty as a:

- member of the armed forces
- member of the emergency services
- humanitarian aid worker.

## 6.5 Arranging payment of IHT

In most cases, some or all of the total IHT liability must be paid before grant of representation is issued. Banks and building societies will often release money for this directly to HM Revenue & Customs. If there are insufficient cash savings to pay the amount due, it may be necessary to arrange for a loan to pay the IHT and for probate court fees. The loan may be repaid from the estate after the grant has been issued.

Alternatively, the personal representative may be able to agree with HM Revenue & Customs that they will pay the IHT due when the grant of representation has been issued and investments or other assets can be sold.

Tax on certain items such as houses or land, IHT may be paid by instalments over a period of ten years. Interest is charged on the unpaid instalments and the whole amount becomes payable immediately if the house or land is sold during the ten-year period. More information on IHT can be obtained from the Probate and Inheritance Tax Helpline or at [www.gov.uk/inheritance-tax/overview](http://www.gov.uk/inheritance-tax/overview)

## 6.6 Deeds of variation

A deed of variation may be used to change the terms of a will (within two years of the date of death). One reason for this might be to reduce an IHT liability. All affected beneficiaries must agree to the changes. You should take legal advice to ensure the deed has the effect you want.

## 7 How to apply for grant of representation

The process of applying for a grant of probate or letters of administration is the same. You either instruct a legal advisor to deal with the matter on your behalf or make a '*personal application*' by post or online.

### 7.1 Application forms

For a personal application, the relevant forms are:

**PA1P/PA1A** - The probate application asks for details about the person who has died, surviving relatives, personal representatives, and details of the will if there is one (**PA1P**) or if there is no will (**PA1A**).

**IHT205** - A '*return of estate information*' form asks for details of the estate and its value. If the value of the estate is less than the IHT threshold at the time of death, before deduction of debts and funeral expenses, you should usually complete **IHT205**.

**IHT400** - If the estate value is over the IHT threshold, or if directed when completing the IHT205, you should complete form **IHT400** ('*Inheritance Tax Account*') and send this to HM Revenue and Customs.

Do not fill in an IHT205 and an IHT400 together. Do not send IHT400 with a probate application. If an IHT400 form is required, seek professional advice as the form is very complex, may require additional schedules, and needs to be completed accurately. Download copies of the forms at [www.gov.uk/government/collections/probate-forms](http://www.gov.uk/government/collections/probate-forms) and [www.gov.uk/government/collections/inheritance-tax-forms](http://www.gov.uk/government/collections/inheritance-tax-forms)

#### Online

You can apply for probate at [www.apply-for-probate.service.gov.uk/start-eligibility](http://www.apply-for-probate.service.gov.uk/start-eligibility) and report the estate value at [www.gov.uk/valuing-estate-of-someone-who-died/tell-hmrc-estate-value](http://www.gov.uk/valuing-estate-of-someone-who-died/tell-hmrc-estate-value)

If applying online, you only need to send a copy of the will by post. You can pay fees by debit or credit card if paying online.

#### By post

When all the forms are complete, send them to the address on the forms with the death certificate and original will (or any documents in which the deceased expresses wishes about the distribution of their estate).

It is advisable to send any documents by recorded delivery after making a copy of the will and other documents and keep copies in a safe place. The fee is £215, although there is no fee if the estate is valued at less than £5,000. You must enclose a cheque for the application fee.

You can pay for extra official copies of the grant of representation, which may be used to send to institutions in place of the original grant (an ordinary copy is not acceptable for this purpose). The fee for each official copy is £1.50 a copy if you request it with the application.

### Note

Depending on your income and personal circumstances, you may not have to pay the whole application fee if it causes you financial hardship. Apply for remission or reduction of the fee using form **EX160**, available from Probate Registry or at [www.gov.uk/government/publications/apply-for-help-with-court-and-tribunal-fees](http://www.gov.uk/government/publications/apply-for-help-with-court-and-tribunal-fees)

## 7.2 Statement of truth

For a personal application, an interview is no longer required, but you must complete a '*statement of truth*' online or by post.

## 8 Distributing the estate

Once the application procedures have been completed and the Inheritance Tax and probate court fees paid, if no objections have been made to the application, the grant of representation is issued in the form of the grant of probate or letters of administration.

A statement of the gross and net value of the estate is contained in the document. The original will is kept by the Probate Registry at the Principal Registry of the Family Division and becomes a public document so anyone may obtain a copy of it.

You must then take the following steps:

- collect in the assets
- pay any funeral account, debts and outstanding expenses in strict order
- distribute the estate.

### 8.1 Collect in the assets

Except for very small estates, it is advisable at an early stage to open a separate bank or building society account, usually known as an '*executorship account*', into which money due to the estate can be paid.

This prevents the estate's funds becoming confused with your personal funds and makes it easier to produce the necessary estate accounts. If using a solicitor to administer an estate, they often use their own client account to collect in funds due to the estate and produce estate accounts for you.

When the grant of representation is received, you must apply for the release of all assets belonging to the deceased, by sending a copy of the grant to each institution. Place money received in the executorship account. Assets include arrears of pensions, balances from bank and building society accounts, proceeds of sale of shares/property etc.



## 8.2 Paying any debts and outstanding expenses

When all assets have been received, any debts should be paid. If there is insufficient money in the estate to pay all the debts, seek legal advice before paying any debts. If you pay debts in the wrong order, you can become personally liable for any mistakes made. It may be advisable formally to advertise for creditors, in case a debt arises after the assets have been distributed.

This is done by placing a notice in The Gazette at [www.thegazette.co.uk/wills-and-probate/place-a-deceased-estates-notice](http://www.thegazette.co.uk/wills-and-probate/place-a-deceased-estates-notice) and in a newspaper covering the area where the deceased last resided. Telephone 0333 200 2434 for more information. The notice should include the name of the deceased, the date of death, and the name and address of the personal representative to whom all claims should be sent.

A period of just over two months is normally allowed from the date of the advertisement for the submission of claims. Doing this protects you from personal responsibility, as long as you are not aware of any claims before the estate is distributed.

You may need to complete an income tax return and you should contact HM Revenue & Customs about this.

You are entitled to claim from the estate for '*out of pocket*' expenses such as copies of the grant, travel, etc, but not for time taken or for the work involved in administering the estate. A professional executor, such as a solicitor, charges fees for their time spent on the work. Their fees are paid out of the estate.

It is important to note that settlement of debts and all administration expenses is the clear priority of the personal representatives before any distribution of the estate is made to the beneficiaries.

## 8.3 Distributing the estate

Once all taxes and debts have been paid and the costs of the funeral and administration have been settled, the estate can be distributed, either according to the terms of the will, or the rules of intestacy (see section 9).

Prior to distributing the estate, you should prepare the estate accounts, setting out details of all the receipts and payments in the estate.

The estate accounts should also account for the difference in the value of an asset at the date of death and the date that you received it, for example an asset may have increased in value, or interest may have been added to the final payment.

The accounts must be approved and signed by you, as well as approved and signed by residuary beneficiaries where possible. The residue (remainder) of the estate may then be distributed, in accordance with the will or the rules of intestacy.

Personal Representatives should not pay money to a beneficiary who is an undischarged bankrupt. Bankruptcy searches can be carried out online at [www.gov.uk/guidance/land-registry-portal-how-to-make-a-bankruptcy-search](http://www.gov.uk/guidance/land-registry-portal-how-to-make-a-bankruptcy-search) at a cost of £2 per name.

Give each beneficiary an *R185 (Estate Income)* form for their share of the estate's income. Try to obtain a signed receipt from each beneficiary when they get their share or bequest (for example an artwork or piece of jewellery), as this forms part of the estate accounts and may save disagreement later. However, this is not mandatory. Ensure two trustees are named for any gifts left to beneficiaries aged under 18.

You may need to transfer a house or flat into the name of a beneficiary. For more information, see [www.gov.uk/update-property-records-someone-dies](http://www.gov.uk/update-property-records-someone-dies)

## 8.4 Possible claims on the estate

The spouse, ex-spouse, partner, child (step-child in some instances) or someone who was financially dependent on the deceased, may be able to make a claim under the *Inheritance (Provision for Family and Dependants) Act 1975*, if they have been left without 'reasonable financial provision'. There are specific criteria that must be met for this type of claim to be successful.

For example, the person seeking financial provision from the estate must have lived with the deceased for at least two years immediately before their death. Usually, such claims must be made within six months of the Grant of Representation, but the Court may allow later claims to be made. If this happens, or there is a risk it might, seek legal advice.

There are other claims that can be made on an estate, for example an allegation that the person who has died did not have sufficient mental capacity to make a will or they were unduly influenced.

The court has wide powers to make an appropriate order to resolve a dispute in any of these circumstances. For example, the court may order:

- a lump sum payment from the estate
- property to be transferred from the estate
- for a will to be declared invalid.

Should a claim be made on an estate that you are administering, it is important that specialist legal advice is sought as early as possible as it can be easier and less costly to deal with matters when they are at the early stages, than when a formal claim has already been issued.

## 8.5 Problems with executors or personal representatives

Sometimes, executors or personal representatives act inappropriately, or do not take actions, or disagree about how to proceed if more than one person is appointed to act. Seek professional legal advice from a solicitor if so, as you may need to involve the court to resolve such difficulties.

## 8.6 If you are an executor and you do not wish to act

You may not wish, or may not be able, to act, even though you have been named as an executor in someone else's will.

You can appoint another person to act as personal representative on your behalf. You need to complete a form to appoint someone else to act as an attorney, see [www.gov.uk/government/publications/form-pa11-apply-for-power-of-attorney-will](http://www.gov.uk/government/publications/form-pa11-apply-for-power-of-attorney-will)

It is important to note that you remain responsible for any actions your attorney takes on your behalf.

Alternatively, you might not want to act at all or appoint anyone else to act for you. Provided you have not already started to deal with the estate, you can '*renounce*' your role as executor completely.

You must complete a form to apply for a renunciation, see [www.gov.uk/government/publications/form-pa15-apply-for-renunciation-will](http://www.gov.uk/government/publications/form-pa15-apply-for-renunciation-will)

Someone else can then apply for a grant of representation.

## 9 Intestacy

When someone dies without leaving a valid will, their estate must be shared out according to the '*rules of intestacy*'. The person who dies is known as an '*intestate person*'. Only people specified in the rules of intestacy are entitled to administer the estate of an intestate person and inherit from it, such as spouses or registered civil partners and children.

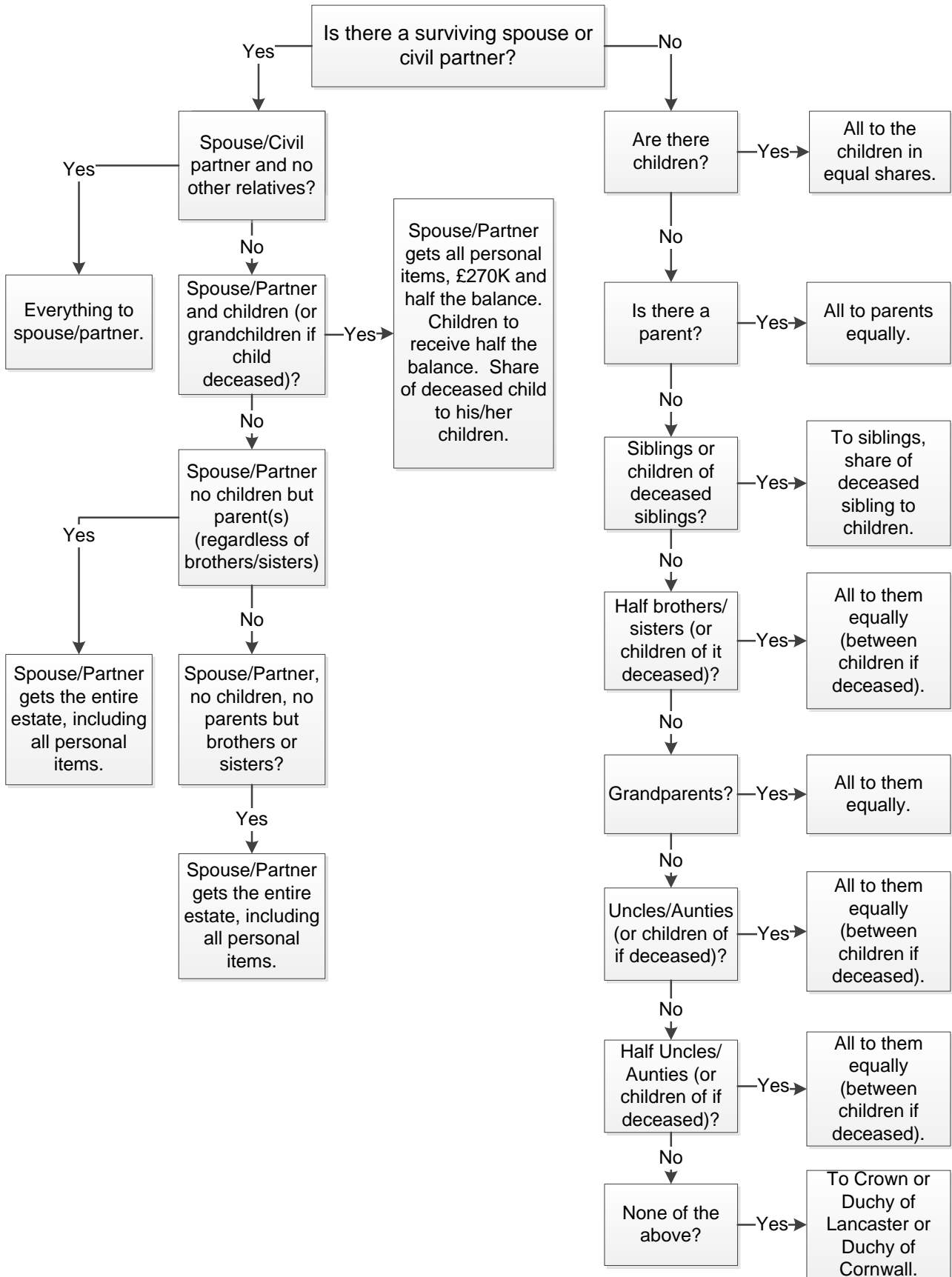
### 9.1 What are the rules of intestacy?

If a person dies without a will, or they leave a will that is not legally valid, the statutory rules of intestacy decide how the estate is shared out. There are rules about the priority of different family members.

The flowchart on the next page illustrates who inherits under the rules of intestacy. If a beneficiary has died during the lifetime of the intestate person but they have left children of their own, then those children are likely to inherit their deceased parent's share of the estate.

Note: references to '*civil partner*' and '*partner*' in the flowchart **only** apply to registered civil partners.

# Intestacy Rules from 1<sup>st</sup> October 2014



## 9.2 Grandchildren and great grandchildren

A grandchild or great grandchild cannot inherit from the estate of an intestate person unless either:

- their parent or grandparent has died before the intestate person, or
- their parent is alive when the intestate person dies but dies before reaching the age of 18 without having married or formed a civil partnership.

In these circumstances, the grandchildren and great grandchildren can inherit equal shares of the share to which their parent or grandparent would have been entitled.

## 9.3 If there are no surviving relatives

If there are no surviving relatives who inherit under intestacy rules, the estate passes to the Crown. This is known as *bona vacantia*. The Treasury Solicitor is responsible for dealing with the estate. The Crown can make grants from the estate but does not have to agree to them.

If you are not a surviving relative, but you believe you have a good reason to apply for a grant, you should seek legal advice.

### 9.3.1 Rearranging how the estate is shared out

It is possible to rearrange the way property is shared out when someone dies intestate, provided this is done within two years of the death. This is called making a deed of variation. All the people who would inherit under the rules of intestacy must agree.

If all agree, the property can be shared out differently so people who do not inherit under the intestacy rules still get some of the estate. They can agree that the amount people get is different to the amount they would receive under the rules of intestacy. Changing the way an estate is distributed can affect whether there is any inheritance tax to pay.

If you think that the way the estate is shared out should be rearranged, you need legal advice and you might get legal aid.

## 9.4 Disclaiming your inheritance

If you do not wish to receive your inheritance, this is known as disclaiming it. If you disclaim your inheritance, you cannot redirect where it goes or suggest your own alternative beneficiary.

Your inheritance is redirected by the personal representatives in accordance with the appropriate rules about who can inherit.

If you want to redirect any inheritance you are entitled to yourself, you should seek advice about a deed of variation, as in section 9.3.1.

## Useful organisations

### **Certainty the National Will Register**

[www.nationalwillregister.co.uk/](http://www.nationalwillregister.co.uk/)

Telephone 0330 100 3660

### **Citizens Advice**

England or Wales go to [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

Telephone 0800 144 8848 (England)

Telephone 0800 702 2020 (Wales)

National network of advice centres offering free, confidential, independent advice, face to face or by telephone.

### **Joint Casualty and Compassionate Centre**

[www.gov.uk/guidance/joint-casualty-and-compassionate-centre-jccc](http://www.gov.uk/guidance/joint-casualty-and-compassionate-centre-jccc)

Telephone 01452 519951

For registration and administration of Military casualties, including estate support.

### **Land Registry**

[www.gov.uk/government/organisations/land-registry](http://www.gov.uk/government/organisations/land-registry)

Registers the ownership of land and property in England and Wales and has a search function for owners of property or land.

### **Law Society**

<http://solicitors.lawsociety.org.uk/>

Telephone 020 7320 5650

For details of solicitors in your area.

### **National Will Register (Certainty)**

[www.nationalwillregister.co.uk/default.aspx](http://www.nationalwillregister.co.uk/default.aspx)

Telephone 0330 100 3660

Register of wills.

### **Probate and Inheritance Tax Helpline**

[www.gov.uk/government/organisations/hm-revenue-customs/contact/probate-and-inheritance-tax-enquiries](http://www.gov.uk/government/organisations/hm-revenue-customs/contact/probate-and-inheritance-tax-enquiries)

Telephone 0300 123 1072

Helpline that can answer questions on applying for probate and payment of Inheritance Tax and to order the relevant forms.

### **Probate Registry**

[www.gov.uk/find-persons-will](http://www.gov.uk/find-persons-will)

Telephone 020 7421 8500 or 020 7421 8509

For wills lodged for safe-keeping.

**Offices of the Official Solicitor and the Public Trustee**

[www.gov.uk/government/organisations/official-solicitor-and-public-trustee](http://www.gov.uk/government/organisations/official-solicitor-and-public-trustee)

Email enquiries@ospt.gov.uk

Government official who can be an executor if there is no-one suitable to appoint.

**Solicitors for the Elderly**

[www.sfe.legal/](http://www.sfe.legal/)

Telephone 0844 567 6173

To find a solicitor specialising in wills and probate.

**Solicitors Regulation Authority**

[www.sra.org.uk](http://www.sra.org.uk)

Telephone 0370 606 2555

Provides details of solicitors in your area and assist if you need to complain about a solicitor.

**Treasury Solicitor**

[www.gov.uk/government/organisations/bona-vacantia](http://www.gov.uk/government/organisations/bona-vacantia)

Telephone 020 7210 4700

For information on *bona vacantia* estates.





## Age UK

Age UK provides advice and information for people in later life through our Age UK Advice line, publications and online. Call Age UK Advice to find out whether there is a local Age UK near you, and to order free copies of our information guides and factsheets.

### Age UK Advice

[www.ageuk.org.uk](http://www.ageuk.org.uk)

0800 169 65 65

Lines are open seven days a week from 8.00am to 7.00pm

### In Wales contact

#### Age Cymru Advice

[www.agecymru.org.uk](http://www.agecymru.org.uk)

0300 303 4498

### In Northern Ireland contact

#### Age NI

[www.ageni.org](http://www.ageni.org)

0808 808 7575

### In Scotland contact

#### Age Scotland

[www.agescotland.org.uk](http://www.agescotland.org.uk)

0800 124 4222

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