

Portcullis Wealth Retention Ltd Guide To Probate



PORTCULLIS
WEALTH RETENTION LTD

James A Caviel
April 2025

CONTENTS

INTRODUCTION	3
ADMINISTERING AN ESTATE.	4
IMMEDIATE ACTIONS	6
LOCATING THE LAST WILL & TESTAMENT.....	9
RECOMMENDED ACTIONS AFTER A TRUST FRAMEWORK SETTLOR DIES:	10
WHAT IF THERE IS NO LAST WILL & TESTAMENT?	11
APPLYING FOR PROBATE	12
PROBATE FLOWCHART:	12
DEED OF VARIATION	14
PROBATE ADMINISTRATION - THE VALUATION PHASE	16
PROBATE ADMINISTRATION - THE APPLICATION PHASE	18
PROBATE ADMINISTRATION - THE GRANT PHASE	22
DEALING WITH THE DECEASED'S PROPERTY.....	22
PROBATE ADMINISTRATION – THE FULFILMENT STAGE.....	25
PRECAUTIONS TO TAKE BEFORE DISTRIBUTING THE ESTATE	25
PREPARING THE FINAL ESTATE ACCOUNTS	26
CLAIMS AGAINST AN ESTATE	27
APPENDICES	28
LAWS OF INTESTACY.	29
LOST PENSIONS, SAVINGS, INVESTMENT OR NS&I:	32
USEFUL CONTACTS.....	33
GLOSSARY	37

INTRODUCTION



This guide provides general information and advice relating to the probate process and the various legal requirements associated with a death, in England and Wales. It does not apply to the Scottish Legal System.

Written primarily with the first time **Executor** or **Personal Representative** in mind, it also contains useful information for relatives and other people with an interest in the affairs and estate of the deceased.

Taking on the role of personal representative can be daunting as it is a position of great responsibility, you may find it difficult to know where to begin. Each estate is different and comes with its own unique requirements.

This Guide is designed to provide you with clear, concise information to help guide you through the probate processes and procedures and answer any questions you may have.

Topics covered include the basics of Probate, what to do immediately following a death, and exactly how you should go about the administration of an estate. There is also invaluable contact information throughout the guide for ease of reference.

The purpose of this Guide is to help the personal representative to administer a straightforward estate themselves, **however it does not replace the need to obtain professional advice and in the event of any uncertainty the reader should contact Portcullis or a suitably qualified firm or individual for advice and guidance.**

Whether a Will is in place or not, a personal representative is required to deal with the administrative process.

Disclaimer

This information has been produced by Portcullis Wealth Retentions Ltd to act as general guidance for administering a straightforward estate.

Administration of an estate can be complex and creates significant responsibilities for the person who is undertaking this role. Usually the Executors (no Will) or Administrator (no Will) Specific issues may arise which are outside the scope of this guide.

The information in this guide is for general guidance only and should not be full or comprehensive advice in relation to the administration of estates. Reliance on the guide is entirely at the reader's own risk.



This Guide does not replace the need to take professional legal advice, in certain circumstances. The author accepts no responsibility for any errors or omissions. The author does not accept responsibility for loss caused by any person acting or failing to act, because of the content of this book. All financial figures and information are correct as of March 2025.

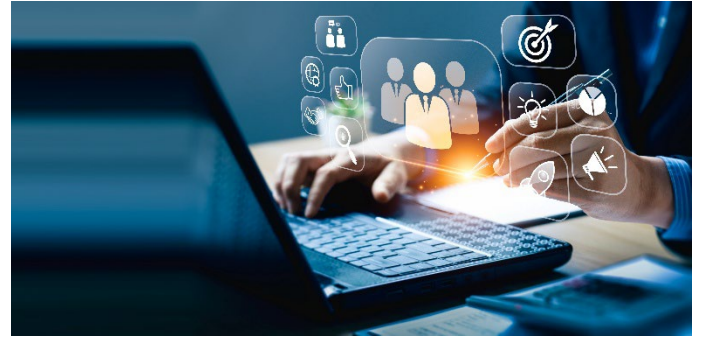



STOP! –Please read before proceeding further
Before you commit to the DIY probate process, please be clear in your own mind of these 3 important issues:

1. That you are happy to take on the personal liability (legal & financial) that comes with dealing with probate. This means that should you make a mistake you will have to put things right out of your own pocket.
2. That you can spare the time to do things correctly and not cut corners. An average probate matter can take in the region of 25-50 hours and can take 6-12 months in terms of the bureaucratic process beginning to end, longer in more complex cases.
3. That the work doesn't end when Probate is obtained. There is a lot of work to do after Probate is granted to finalise the estate – see chapters 5 & 6 of this guide for details.



ADMINISTERING AN ESTATE.




 4. Where the deceased left a trust arrangement or had more complex affairs it is recommended that the Personal Representative takes legal advice from either the author or a suitably qualified firm to avoid any costly mistakes.

I would recommend that you read this guide thoroughly before deciding on the best option for you. Only then will you have a full understanding of what is required and whether you are comfortable and confident in dealing with the various aspects.


If you are uncomfortable with any of the above issues, then DIY Probate may not be for you. If so, then this option might be more suitable....

You can hire Portcullis Wealth Retention Ltd as your “probate partner”. You choose how much or little of the probate work you would like us to complete for you. You are still in charge, and you can still carry out some or all your duties as an Executor if you wish.

 The important point is there is help available to save you time and effort – If you want it and you won’t have to worry about being personally liable or making a costly mistake.

We have many years of experience in dealing with the settlement of estates and will be happy to take over the administrative burden (albeit fees will apply). As a guide, expect to pay between £5,000- £9,000 for our fees a written quotation will be provided before any work is carried out following an Initial Consultation Meeting to discuss the case.

Remember Solicitors will charge a similar amount or higher and Banks will charge more. The actual Administration and winding up of an Estate is a bureaucratic process and familiarity and experience with tax rates, technical terms and dealing with the HMRC and HMCTS are invaluable, however you don’t have to be a Solicitor to administer or execute a person’s Last Will and Testament and wind up their estate.

 Available upon request we have many example letters to help with correspondence, along with copies of the forms you will need to carry out your responsibilities successfully.

There are many legal requirements to complete when a person dies. These tasks are collectively called ‘**administering an estate**’ and one of the requirements is to obtain a **Grant of Administration** most referred to as **Grant of Probate**, however “**Probate**” is the legal term used to describe the entire winding up process, rather than just the certificate.

Where there is a Last Will & Testament

The deceased’s ‘**Personal Representative**’ should carry out these probate tasks. The personal representative is legally referred to as an “**Executor**” and is always named in the Last Will and Testament. Typically, they will usually have been made aware they have been appointed by the deceased.

However, it doesn’t matter if the Executor wasn’t previously aware, they can still act, they can also rescind the responsibility if they wish. *[If this is the case, we suggest you seek professional guidance from us or a suitably qualified person to provide advice on how to proceed]*

If there is no Last Will & Testament

Usually, it will be the next of kin, or a close friend who will deal with the probate process. Where there is no Last Will & Testament, then the personal representative is applying for “**Letters of Administration**”.



Page 12 explains more about what is required if someone dies without leaving a valid Will and there is more information on pages 35 – 38 in the *APPENDICES*

Who should deal with the application for Grant of Probate / Letter of Administration?

If there is a Will	The Executor/ s of the Will or their legal representative.
If there is no Will	The deceased's next of kin ¹ or their legal representative will become their Administrator ²

What is Probate and why is it needed?

'Probate' is a term used to describe the legal administrative winding up processes involved after a person has died. This involves dealing with a deceased person's finances, property, general assets, and debts (together these form the deceased's 'estate').

A Grant of administration or letter of administration gives the person/s named the official authority to deal with the deceased's estate. It is issued in the form of a court order. These certificates are issued by HMCTS via the Probate Registry, which is part of the High Court.

As the deceased's personal representative, you will require this certificate to perform duties as an Executor or Personal Representative to enable you to deal with the deceased's assets.

Assets such as sole bank accounts are usually 'frozen' after a death until the Grant of administration or Letter of administration can be provided to the relevant company.

When is Grant of Administration or Letter of Administration not be required?

There are some instances when a person dies, and Probate is not required to deal with their estate:

Estate's worth less than £15,000 In some cases, financial institutions may use their own powers of discretion with accounts of less than £15,000 in value. In these cases, the financial institution may not require sight of the certificate to close the account(s). We suggest the representative contacts the account-holding institutions to check whether they require probate.

Probate is not required if the **estate is less than £5,000** in value.

Assets owned jointly evidence of the certificates is not normally required to deal with assets owned jointly, e.g., a joint bank account.

Where this is the case, upon the death of one of the joint owners, the asset automatically becomes the property of the surviving joint owner(s) – even if the Will states otherwise.

For joint ownership of property, please refer to chapter 5 for further details and instructions.

Assets that do not form part of the estate:

Sight of the Grant or Letters of Administration are not required to deal with any assets that do not form part of the deceased's estate. An example of this would be 'death in service' benefit held in trust. The relevant organisation (in this example the deceased's employer) will confirm whether this is the case.

What is involved in dealing with Probate?

When dealing with the legal aspects of a person's death, it can be hard to know where to start. In short, you must follow the steps outlined below:

1. Register the death at the registry office.
2. Arrange and pay for the funeral.
3. Notify any interested parties of the deceased's death e.g. Employer, social services, financial institutions, utility companies and insurance companies.
4. Value the deceased person's estate.
5. Prepare the inheritance tax return and pay any tax due.
6. Apply for the Grant of Probate.
7. Register the Grant of Probate with all relevant institutions.
8. Close bank accounts sell investments and transfer or sell ownership of the deceased's property.
9. Finalise the deceased's Income Tax and Capital Gains Tax positions.
10. Ensure any outstanding amounts owed by the deceased are paid in full, for loans, tax, overpaid state benefits, credit card and other debts.
11. Follow up debts owed to the deceased to ensure these are paid.
12. Pay any administrative expenses incurred.
13. Prepare the estate accounts, detailing financial transactions and how the estate is distributed between beneficiaries.
14. Distribute the estate in accordance with the instructions of the Will where there is one, or the Intestacy rules if there isn't a Will (please refer to pages 12 & 35 for more information on Intestacy).

¹ See **APPENDICIES - Laws of intestacy** to work out who is the next of kin. It may be different to what you think.

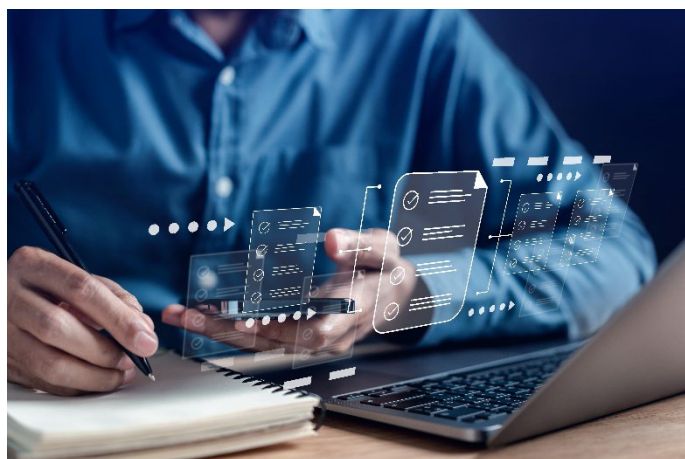
² A Personal Representative cannot act if they are under 18 years of age or bankrupt.

When to consult a solicitor

Always seek the advice of a solicitor in the following instances:

- ✓ If there is any dispute relating to the estate or a possible claim against it.
- ✓ If the estate is insufficient in value to pay the debts and legacies due.
- ✓ If there is a possibility of reducing a large inheritance tax bill.
- ✓ If a Deed of Variation is required to alter the distribution of the deceased's estate.
- ✓ If the Will is invalid.
- ✓ If part of the estate passes to a beneficiary who is aged under 18.
- ✓ If the deceased has left money in a trust.
- ✓ If the deceased owned a business.
- ✓ If the deceased owned property abroad.

IMMEDIATE ACTIONS



This section provides a checklist for the Executor / Next of Kin to use as means of ensuring they notify all the relevant parties when someone dies.

It also explains the initial steps to take after a death.

If you are reading this it's likely you are swimming in a world of emotions and Portcullis are here to help you, the bereaved, deal with the sometimes-overwhelming tasks, that need to be dealt with when a loved one dies.

Checklist – People and organisations to notify of the death:

	The family doctors.
	The police if the death was unexpected or did not happen within a hospital.

³ If the deceased was a client of ours then we will have a comprehensive list

⁴ Unless you have used the "Tell us once" service when registering the death.

	The deceased's employer or pension provider.
	Department of Work and Pensions, if the deceased received a state pension or any other state benefits.
	Anybody for whom the deceased acted as Power Of Attorney or Deputy appointed by the Court of Protection.
	Organisations that hold assets & investments ³
	Creditors such as credit cards, loans etc.
	Local Authority Council Tax department ⁴
	Utility suppliers.
	Vehicle & home insurers. Ensure any conditions imposed by them are strictly observed.
	Any other interested parties. Examples of potentially interested parties are Social Services, Care Providers and HM Revenue & Customs.

Additional checklist if the deceased lived alone:

	Ensure any pets are cared for.
	If the deceased has left a Will, it may contain instructions for the care of their pets following their death. Alternatively, instructions may be contained elsewhere, such as a box of paperwork.
	If necessary, contact animal rescue charities, their numbers are listed in the Yellow Pages, on the internet, or through a local vet.
	Ensure that the deceased's house and its contents are secure & remain insured. Notify the home insurance provider of the death. If there is no insurance cover in place, you must arrange the best cover you can obtain.
	Arrange the redirection of post. Royal Mail will arrange the delivery of mail to an alternative address. This can be arranged via a mail redirection form, available from main Post Offices.
	Avoid direct mail being sent to the deceased by registering their death on the bereavement register: www.the-bereavement-register.com
	Remove any valuable, portable items from their property and store them in a secure location, ensuring adequate insurance cover is obtained.
	To avoid any possible allegations of misappropriating assets, take a reliable witness with you and document thorough details of

	what you have removed. The records should be signed and dated by you and the witness.
	Return any items that are on hire purchase agreements.
	Protect the deceased's property from the risk of burst pipes during winter by ensuring the central heating is set to come on during the day or night.
	Alternatively, you can drain and turn off the water and central heating systems.
	Cancel any regular deliveries such as milk and newspapers.

Checklist other areas to consider:

	Establish whether the deceased had any wishes regarding body or organ donation. Check to see if the deceased carried a donor card or has made their wishes in this area clear in their Will.
	Alternatively, they may have left instructions elsewhere in their home, perhaps in a desk or box of paperwork. It is also possible that they registered their wishes about organ donation with the DVLA.
	Return TV / driving licenses and season tickets to the appropriate organisations.
	Sell or transfer ownership of cars and other vehicles. Selling a vehicle does not require probate, and it is acceptable and commonplace for the Executor / Personal Representative to sign the registration document when selling the vehicle.

Registering the Death


The death needs registering within five days of its occurrence, at the registry office closest to where the person died or where the body was found.


It is usually the responsibility of a relative to register a death, although it may be registered by any person present when the death occurred, by the occupier of the house where the death occurred, or by the person responsible for making funeral arrangements.

The Registrar will require the following information relating to the deceased:


	Date and place of death
	Full name
	Sex
	Marital status
	Maiden name if a married woman or widow
	Date and place of birth

	Occupation
	Usual address.


 You can obtain more than one copy of the death certificate from the registrar. It is advisable to obtain enough copies to supply an original version to all financial institutions requiring notification, as they will not accept photocopies unless certified by a recognised authorised person, such as IFA, Accountant, Solicitors etc.


 "Tell Us Once" is a service that lets you report a death to most government departments in one go. Your local registrar will have given you a unique reference number to access the service online or by phone. The registrar will also give you the phone number for the service. You'll need the deceased's:

<i>Date of birth</i>	<i>National insurance number</i>
<i>Passport number</i>	<i>Driving licence number</i>
<i>Details of any benefits or entitlements they were getting, e.g., state pension.</i>	<i>Details of any local council services they were getting, e.g., blue badge.</i>
<i>Name and address of their next of kin</i>	<i>Name, address and contact details of the person or company dealing with their estate.</i>

 "Tell Us Once" will notify:

- HM Revenue and Customs (HMRC) - to deal with tax and cancel benefits.*
- Department for Work and Pensions (DWP) - to cancel benefits, e.g., income support.*
- Passport Office - to cancel a passport.*
- the local council - to cancel housing benefit, council tax benefit, a Blue Badge, inform council housing services and remove the person from the electoral register.*
- They will also tell the Driver and Vehicle Licensing Agency (DVLA) to cancel the deceased's driving licence.*
- You'll still need to send DVLA registration certificates (V5C).*

 You'll have to let the relevant department know about the death yourself if your local register office doesn't offer the Tell Us Once service or you choose not to use it.



If the death has been referred to the coroner, the registration process may vary – your funeral director can advise you accordingly.

The Registrar will also require the following documents:


- ✓ *Medical certificate of cause of death.*
- ✓ *Deceased's National Health Service medical card (if available).*
- ✓ *Deceased's birth certificate.*
- ✓ *Deceased's marriage certificate (if applicable).*

The Registrar may issue a green certificate for burial or cremation, which is required by the Funeral Directors prior to the funeral.

Certified copies of the entry of death can be obtained for a small charge - these will be needed for legal or financial purposes we'd recommend at least 5 copies.

Arranging The Funeral: It is the responsibility of the **Personal Representative(s)** or next of kin to arrange appropriate funeral arrangements with an undertaker.

If there is a valid Will, you should check whether the deceased expressed any wishes relating to their funeral.



Points to note; Pre-payment plans are available to cover funeral costs so you should check whether the deceased purchased such a plan. To do this, it is advisable to contact local undertakers.

Where no pre-paid plan was in place, the deceased's bank or building society will pay the undertakers directly upon the production of an original invoice (providing there are enough funds held with them). An example letter to the bank is available upon request.

Keep a copy of the undertaker's invoice for accounting records relating to the estate. If there are insufficient funds held with a bank or building society, it may be possible to pay the undertaker for the cost of the funeral after probate is granted once funds become available.

No matter which Funeral Director you appoint to look after your deceased relative over the years I have found the **Co-Operative, Citizens Advice Bureau, Age UK** and the FCA's **Money Helper Service** all have excellent websites with lots of useful information.

Claim Bereavement Benefits: If the deceased was your husband, wife, or registered civil partner (not your common law partner), you may be entitled to one or more **STATE BEREAVEMENT BENEFITS**. These benefits are only available if your husband, wife, or civil partner

paid National Insurance contributions, your own contributions are not relevant in making a claim for any of these benefits.

- ❖ **Bereavement Support Payment** - a one-off, tax-free payment.
- ❖ **Bereavement Allowance** - a weekly benefit paid for up to 52 weeks.
- ❖ **Widowed Parent's Allowance** - a weekly benefit if you are a widow or widower, or you are civil partner has died and you have a child or qualifying young person aged between 16 and 20 years old.

How to claim

You can apply for Bereavement Support Payment online, by telephone or by post.

To apply, you will need:

-  **your National Insurance numbers.**
-  **your bank or building society account details.**
-  **the date your partner died.**
-  **your partner's National Insurance number.**

Apply online: <https://www.gov.uk/bereavement-support-payment/how-to-claim>

Apply by phone: Bereavement Service helpline

Telephone:	0800 151 2012
Welsh language:	0800 731 0453
Textphone:	0800 731 0464
Welsh language:	0800 731 0456

Relay UK (if you cannot hear or speak on the phone):
18001 then 0800 151 2012

British Sign Language (BSL) video relay service if you're on a computer - find out how to use the service on mobile or tablet.

Monday to Friday, 8am to 6pm

- Apply by post:** To get a claim form, you can either:
- ✓ download a Bereavement Support Payment form (BSP1)
 - ✓ contact your nearest Jobcentre Plus to get one through the post

Minor Children, Elderly Relatives & Pets

Children: If the deceased was the sole carer or guardian of children, the children's welfare must be considered immediately. There are often other relatives or close friends who could look after the children on a temporary basis.

Check the Will to see if any guardians are appointed. If so, contact the guardians as soon as possible.

If there is no valid Will or no instructions relating to the children, then it will be the responsibility of Social Services to make formal arrangements.

Elderly relatives: If the deceased had an elderly relative dependent upon them, it may be necessary for them to move temporarily to an elderly persons' home. To obtain details of suitable registered homes, contact the Social Services department of the appropriate Local Authority.

Alternatively, Social Services may be able to arrange additional help for the elderly person, or a private agency can offer temporary living-in help, to enable the elderly person to stay in their own home.

Pets: Depending upon circumstances the Last Will & Testament may already contain instructions on what to do. If you are familiar with those instructions, then you may wish to carry out the deceased's wishes as soon as practical for the safety and comfort of their beloved pet.

In the event of no known instructions then it maybe that the pet could temporarily stay within the family or close friends, assuming the temporary foster carer is willing and able to tend to the pet's immediate day to day needs until a more permanent solution can be found.

As a last resort most local pet shelters and the RSPCA will assist wherever possible to ensure the pet is looked after until a permanent solution can be found.

Open an Executor's bank Account

It is advisable to open a bank account solely for the deceased's estate. This way you can keep a record of payments made and received.

By opening an account for the sole purpose of administration of the estate, you will ensure that all transactions are kept separate from any of your own financial dealings. Estate monies must never be intermingled with personal or other funds.

It is not possible to use the deceased's own bank account for administering the estate. When notified of the death of the deceased, the bank will freeze their account.

You could choose to open an account with the same institution that holds the deceased's account. However, you may prefer to open an account with your own bank or building society. This may help avoid a lengthy application process.

To open a new account, it is best to contact your chosen institution to explain that you would like to open an account and that you are acting as a **Personal Representative**.

They will be able to advise on the most suitable account for this purpose, as well as all application procedures. If you are opening an account in joint names, you should ensure that there is a joint signing mandate only.

This way, all **Personal Representatives** are informed of, and in control of, all financial transactions.

LOCATING THE LAST WILL & TESTAMENT



If the deceased was a client of **Portcullis Wealth Retention Ltd** its quite likely we would have written their Last Will and Testament as well as a Family Controlled Trust Framework, if this was the case then simply contact us and we will assist in the original document retrieval.

Alternatively, the Will could be in any number of places:

- ❓ It is advisable to start with the personal paperwork of the deceased.
- ❓ We recommend clients use the National Will Archive
- ❓ Otherwise, make enquiries with local solicitors, Will-writing firms, and the deceased's bank(s).
- ❓ If it is thought that the deceased left a Will with a solicitor, but they cannot be located, place a notice within the Law Society Gazette:
www.thegazette.co.uk +44 (0)333 200 2434
- ❓ It is also possible to conduct an online search, through www.certainty.co.uk.
- ❓ Title Research also offers a service to locate Wills:
www.titleresearch.com/Services/willsearch 020 7332 9090.
- ❓ The central Probate Registry in Holborn offer a Will storage facility and they can be contacted on 020 7947 7022

If there is no Will, it is essential to identify the next of kin (see page 14 for details of how to do this). They will need to apply for a Grant of Letters of Administration unless the deceased's estate is worth less than £5,000.




We will review what to do with the Will in the next section, but for now you are well advised to try and locate the document as it may also contain specific funeral instructions or other important information that the deceased wanted to happen in the immediate aftermath of their death.

If there's no will the law decides who inherits, see page 14 for some basic details and **APPENDICES - LAWS OF INTESTACY** for more complete information.

Realising the benefits of a trust: When a client dies, the full benefit of Trust planning can be realised by the family and Beneficiaries. Probate solicitors often advise clients to close Trusts (because many solicitors have little Trust experience, or do not know how to maintain Trusts economically).

this will result in the beneficiaries losing the protective and generational benefits, the deceased was trying to avoid. It will be beneficial to remind the Trustees of the benefits of any trust planning.



We publish a number of **PWR TECH GUIDES** all available on request to assist the Executor administering and winding up the deceased's estate:

-  **PWR TECH GUIDE TRUSTS DURING PROBATE v.1 [A guide on how to navigate the probate process with a trust]**
-  **PWR TECH GUIDE TRUSTEE v.1 [A guide to the responsibilities of being a trustee]**
-  **PWR TECH GUIDE TRS v.2 [A guide to HMRC Trust Registration Service]**

RECOMMENDED ACTIONS AFTER A TRUST FRAMEWORK SETTLOR DIES:

The named Executor/s contact Portcullis Wealth Retention Ltd to advise us of the client's death

As Executor you will be responsible for administering the winding up of the estate. However, you can ask for professional assistance and Portcullis Wealth Retention Ltd offers two Probate services.

-  The **Limited Probate Service** or
-  Alternatively for complex estates, you may wish to engage us for the **Full Probate Service**.

We will of course provide a complimentary Initial Meeting to discuss the position and follow this up with a written quotation for the relevant service recommended.

You can then either decide to appoint PWR to assist you or simply proceed without any further assistance.

Whether its PWR doing the administration or your personally as Executor you will need to provide Solidus an authority letter signed by the Executors along with a copy of the Death Certificate to retrieve any documents Solidus have stored

Advice Solidus if any pre-probate actions regarding Residence Nil Rate Band claims on first or second death are required.

Open A Trustee Bank Account once you have located the Last Will & Testament we recommend the Executor should open Trustee Bank account. Even before Probate is progressing, the Trustees need to establish a Trustee Bank Account.

The two popular banks for Trustee accounts are Metro Bank and Cater Allen. Anti-money laundering for all Trustees will be required.

Probate Application

Stage 1 The Valuation Phase – Assembling estate valuations.

Stage 2 The Application Phase – Estate documents prepared, including IHT submission. Once approved finalised documents will be received together with an Oath for the Executors to sign and swear to.

Stage 3 The Grant Phase – Submission of the IHT forms to HMRC & obtaining approval. Once IHT release is obtained application to the Probate Office for the Grant of Probate.

Stage 4 The Fulfilment Phase – On receipt of the Grant of Probate, Executors accumulate any cash sums, encash any investments or transfer as required. Funding of the NRB can then be agreed.

Realising the benefits of a trust framework: Once the Grant of Probate is issued the advice process can begin. The Letter of Wishes to the Trustees should be reviewed and followed, unless the Trustees have good reason to follow an alternative approach. Any deviation requires unanimous agreement.

There are several options open to the Trustees and they can adopt one or more of these approaches:

- ❖ Appoint out capital to a Beneficiary – this is generally only for smaller values as the protective and generational benefits may be lost, but is not uncommon if, for example, Trustees are seeking to minimise periodic charges. Appointment of capital needs to be done by Legal Deed.

- ❖ Make a loan to a Beneficiary – this is commonly used and requires Solidus to provide Minutes and one or more loan agreements. The Beneficiary can then use the funds to pay off any debt, assist their own children, or seek investment advice.
- ❖ Invest the sum in a tax-efficient investment in the names of the Trustees – usually a bond is purchased by the Trustees so that Trust tax reporting requirements are not triggered. Minutes are suggested from Solidus and the Trustees can transfer funds from the Trustee Bank Account to the provider chosen for the investment.
- ❖ Claim a RNRB allowance – this is required when the RNRB allowance is required to be claimed and can be provided by Solidus in advance of probate.

You can shape the transfer of assets:

- ❖ Encash investments that may not be transferable e.g., ISA's.
- ❖ Encash or transfer shares.
- ❖ Transfer and register property.

WHAT IF THERE IS NO LAST WILL & TESTAMENT?



If someone dies without leaving a Will it creates a legal situation called 'intestacy'.

The law states who may administer the estate and who may benefit from it. 'Intestacy' can arise in the following circumstances:

- 🌿 A person has died without leaving a Will.
- 🌿 The Will of the deceased is invalid, e.g. it was not witnessed.
- 🌿 The Will was revoked prior to death.
- 🌿 All the named Beneficiary or Beneficiaries of the Will died before or alongside the deceased.

There is also a situation known as 'Partial Intestacy', which means that the Will left by the deceased did not account for the whole of their estate. In this case, the part(s) of the estate not accounted for will be subject to the laws of Intestacy. The Direct Gov website also

includes more information about what happens if someone dies without leaving a Will.

Obtain 'Letters of Administration.' The **Personal Representative** of the deceased person will need to obtain a 'Grant of Letters of Administration' from the probate registry to deal with the person's assets.

The title is slightly misleading in that it is a court order rather than "letters" in the common use of the word. A Grant Letters of Administration is the equivalent of probate where the deceased did not leave a Will.

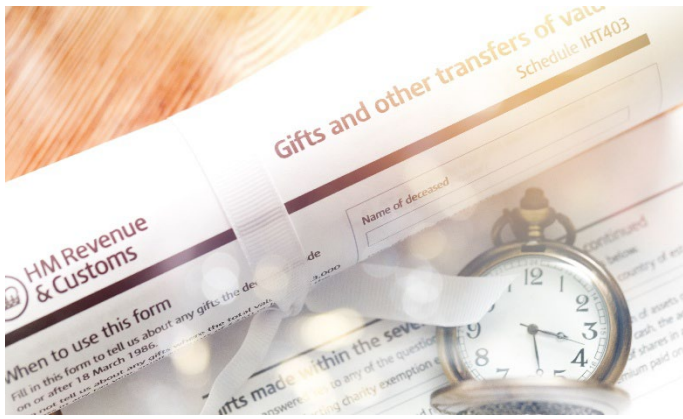
The process is almost identical to probate and is set out in detail in pages 14 and 15.

Who can administer the estate if there isn't a Will?

There are legal rules to help identify the next of kin responsible for administering a deceased person's estate where there is no Will. The order of priority is listed below:

- ✓ Husband, wife or registered civil partner of the deceased. Please note this does not include unmarried/common law partners.
- ✓ Children of the deceased. (If the deceased was unmarried or divorced and had children under the age of 18, the surviving parent of the children becomes the responsible party for administering the estate).
- ✓ Issue of children of the deceased (i.e. Grandchildren)
- ✓ The parents of the deceased.
- ✓ The brothers and sisters of the whole blood (they have both parents in common) of the deceased.
- ✓ The children of brothers and sisters of the whole blood of the deceased (i.e. Nieces/ nephews).
- ✓ The brothers and sisters of the half-blood (they have just one parent in common) of the deceased.
- ✓ The children of brothers and sisters of the half blood of the deceased.
- ✓ The grandparents of the deceased.
- ✓ The uncles and aunts of the whole blood of the deceased.
- ✓ Children of uncles and aunts of the whole blood of the deceased (i.e. Cousins).
- ✓ The uncles and aunts of the half blood of the deceased.
- ✓ Children of uncles and aunts of the half blood of the deceased.

APPLYING FOR PROBATE



To distribute the deceased’s estate in accordance with their wishes (if there is a Last Will & Testament) or in line with the laws of intestacy (if there isn’t a valid Will) the Executor/s will need to apply for a legal document that provides them with the legal authority to act upon the deceased’s behalf.

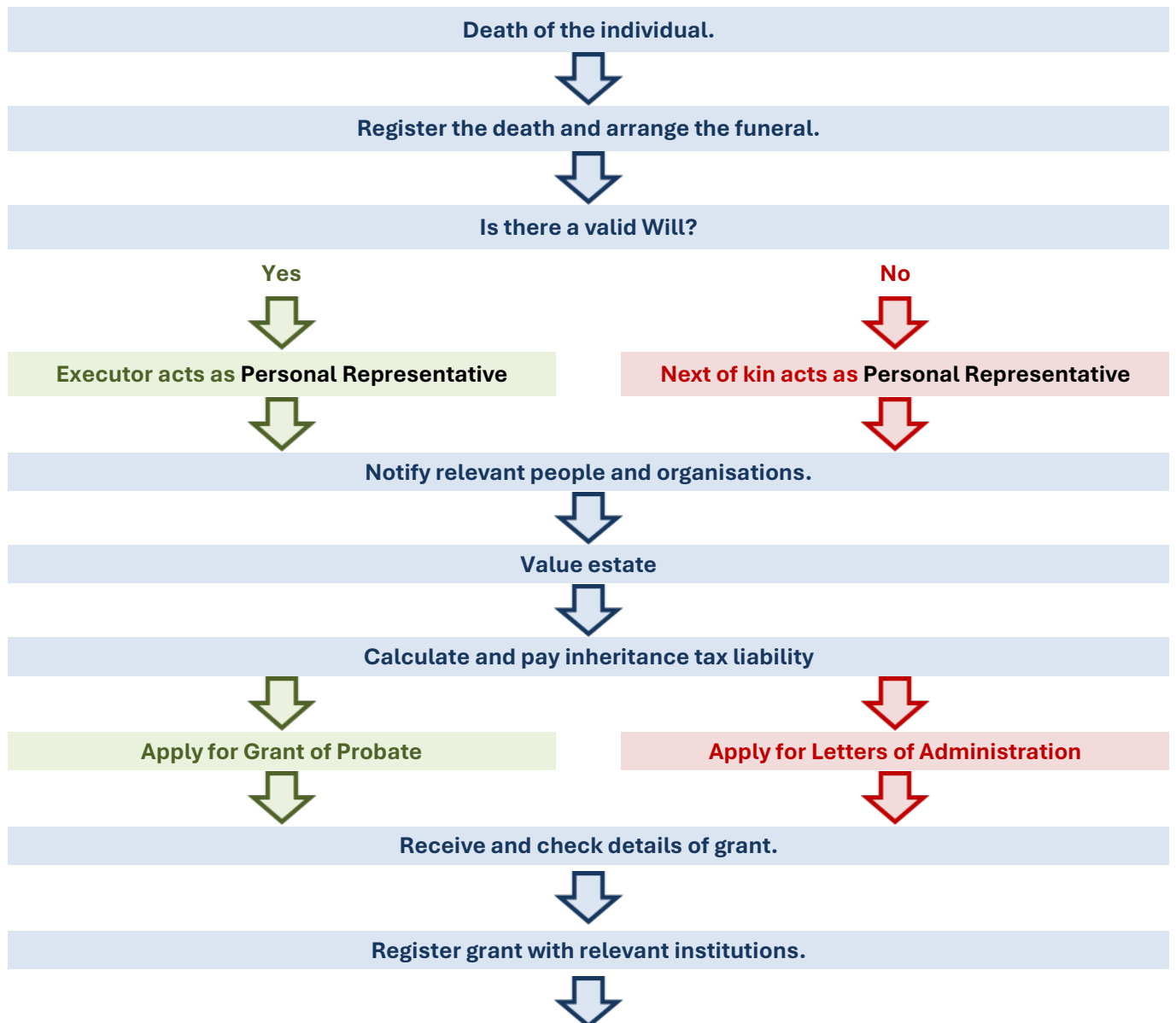
A **Grant of Representation** referred to as **Grant of Probate** where there was a valid Last Will & Testament or **Letters of Administration** where there wasn’t.

The process of acquiring this document is universally referred to as “Probate” and it must be completed in a very specific manner to be given to the Executor/s is required to distribute the deceased’s estate.

This chapter explains the steps you will need to follow, and the actions you should take to make a successful application.

PROBATE FLOWCHART:

The chart below is designed to provide an insight into the process for a relatively straight forward estate; more complex cases may involve additional steps not mentioned here and may require specialist advice and support to successfully be dealt with.





Responsibility: Having located the deceased’s Last Will & Testament one of the first things you will need to do is check who are the Executors of the Will as its their responsibility to execute the deceased instructions, ideally this will be you the reader, but in the event it is not then you must make contact with the Executor/s and give them our details and this Guide.

They can of course refuse to act or ask you to complete the process on their behalf, there are some forms that will need to be completed in order to do so, but this is an administrative process, than can be easily completed if you are using a professional for guidance.

Check the will: The Probate Registry will thoroughly examine the Will to ensure its validity. You should be aware of all the factors affecting the validity of the Will and should check the document as thoroughly as possible before applying for the **Grant of Probate** as there are many points to consider:

Legal capacity: The deceased (known as the ‘testator’) must have had full understanding of the Will and its implications, the extent of their estate, and the moral obligations owed to potential beneficiaries at the time of their writing it.

The deceased must have understood the effects of their Will without being affected by any mental disorder.

The key point is that the testator had the required legal capacity at the time of making the Will. For example, some people who suffer from Alzheimer’s disease have moments of lucidity.

If the Will was written during one of these periods, then it is possible they had the required legal capacity.

If, however, the Will was written at a time when their mental capacity was significantly reduced, the requirements for full legal capacity would probably not have been met.

Free of duress: It is also essential that the testator was acting within his or her own free will and was not under the influence or duress of any other person.

- Legal requirements:** The Will must have been:
- ✓ Produced in writing; typed, handwritten, or printed.
 - ✓ Signed by the testator (or somebody in their presence if they are incapable, if the person signing the Will is doing so at the testator’s request).
 - ✓ Witnessed by two or more persons present at the same time as each other, who are not named as beneficiaries in the Will.
 - ✓ Signed by the witnesses within the testator’s presence.
 - ✓ Signatures should be accompanied by the following (or very similar) wording: ‘Signed by the

Testator in our presence and attested by us in the presence of the Testator and of each other.’

- ✓ Signatures of the testator and the witnesses should appear at the end of the Will. Any wishes and instructions contained following the signatures can suggest that they were added after the Will was signed. This may lead to the Probate Registry querying their validity.



For clients who have used Portcullis Wealth Retention Ltd or any other professional to create their Wills & Trusts one may safely assume these conditions were met and discussed.

Void Will bequests: You should be mindful of the following circumstances and seek legal advice where appropriate:

- ❓ Bequests to witnesses or their spouse/partner. The witnesses to a Will must be independent. Any bequest made to a witness, or their spouse/partner is void, unless there are two further disinterested witnesses to the Will. This will only affect the part of the Will pertaining to the witness or their spouse/partner.
- ❓ Bequests contrary to public policy. This can be complicated and vary over time, according to current policy. Possible examples of this include:
- ❓ Conditions which weaken the family unit or institution of marriage, or which interfere with a beneficiary’s choice of religion. For example, a bequest with a condition that a son leaves their partner or converts to a different religion to receive their inheritance.
- ❓ Conditions contrary to the legal nature of a property. For example, a condition stating that a house cannot be sold or should be boarded up and left unused.
- ❓ Gifts which break the rules against perpetuities and accumulations; an example of this would be where the income on an asset is accumulated for over 21 years before it is distributed to the beneficiary.
- ❓ Irreconcilable bequests, e.g. Where the same item has been bequeathed to two different individuals.
- ❓ Insufficient assets are available to pay all debts and/or legacies.
- ❓ Bequests of items that no longer exist, or to people / organisation that no longer exist.
- ❓ Gifts of other people’s property.

If any of the above situations apply, you should seek advice from a solicitor.

For tax purposes or other reasons, it maybe that the Will, despite being valid, should be varied known as a Deed of Variation.

DEED OF VARIATION

While most people are aware that a person can alter the terms of their own Will during their lifetime, it is not necessarily common knowledge that the same can be done to a valid Will, by the beneficiaries of the estate, after the death of the deceased.

Changing a will after a death: You can change a person’s will after their death, provided any beneficiaries left worse off by the changes agree.

You can make changes to the inheritance in the same way as if there’s a will.

Any changes to the will **must** be completed within **2 years of the death**.

Reasons for variation: There are many reasons why variation may take place, including the following:

- ✓ Circumstances changing after a Will has been made, for example the deceased having married or entered a registered civil partnership.
- ✓ Settlement of claims made under the Inheritance (Provision for Family and Dependents) Act 1975.
- ✓ **Personal Representatives** and beneficiaries may decide to settle problems created by unclear instructions left in a Will out of court, by agreement, which must be detailed in writing. i.e., provide for someone who was left out of the will or clear up any uncertainty over the will
- ✓ Beneficiaries may wish to provide for somebody they consider having been overlooked, or wealthy beneficiaries may wish to redirect bequests made to themselves to their children or grandchildren.
- ✓ The most common reason of all for variations being made to a Will is to ensure the least amount of tax is incurred such as moving the deceased’s assets into a trust
- ✓ Changes to the Will or Intestacy rules are achieved by drafting a legal document called a ‘Deed of Variation’.

Another situation where this is possible is in cases where a beneficiary dies and their own **Personal Representative** can disclaim or vary their inheritance, if they have the consent of those set to inherit from the beneficiary’s estate.

What the Executor/s need to do: To change a will, you’ll need to make a ‘variation’.

You don’t need a formal document or deed - you can write a letter if it meets the conditions laid out in the **Inheritance Tax: instrument of variation checklist (IOV2) which** is located here

<https://www.gov.uk/government/publications/inheritance-tax-instrument-of-variation-checklist-iov2>

the form contains Guidance Notes and 11 simple “Yes” or “No” questions to help the Executor/s or their agent to determine whether the proposed variation will be valid, the questions are as follows:

- 1) Is the variation dated within two years of the date of death?
- 2) Is the variation signed by all the people whose entitlement is adversely affected?
- 3) Does the variation clearly indicate the inheritances that are being varied and how they are being altered?
- 4) If the variation alters the destination of stocks, shares, or marketable securities, does the variation contain a Stamp Duty exemption certificate?
- 5) Does the variation contain a statement that the signatories intend the variation to have effect for?
 - a) Inheritance Tax? and /or.
 - b) Capital Gains Tax?

If the answer to any of questions 1– 4 or to both parts of question 5 is “No”, the variation may not be effective for tax purposes.

- 6) Does the variation seek to vary an interest in assets held in trust or assets that the deceased had given away but had reserved a benefit in?
- 7) Is the variation seeking to vary assets or entitlements that have already been varied?
- 8) If the deceased died on or after 6 April 2012, is the variation seeking to pass assets to charity?

- 9) Have any assets been brought in from outside the estate and paid to the original beneficiary, to compensate for their loss?

If the answer to any of questions 6-9 is “Yes”, the variation may not be effective for tax purposes.

- 10) Does the variation affect the Inheritance Tax (IHT) payable in this estate?
- 11) Does the variation affect the IHT or valuation requirements of any other estate?

If the answer to either question 10 or 11 is “Yes,” you should send a copy of the variation and the HMRC form IOV2 to the HMRC. You should keep a copy of the variation and the IOV2 checklist.

If the variation means that there is more IHT to pay, you must send the variation in within 6 months of making the variation.

The executors or administrators must also sign the variation if there is more IHT to pay. You don’t need to send a copy to HMRC if the variation doesn’t change the amount of Inheritance Tax due.



Always seek advice from a solicitor or suitably qualified professional if a Deed of Variation is required.

Next, we review each stage of the PROBATE ADMINISTRATION Process.

PROBATE ADMINISTRATION - THE VALUATION PHASE



This is simply working out the value of the deceased's estate. Begin by making a list of everything the deceased owned which can be turned into a cash value – even if the sale of an asset is not intended.

The type of assets that you should establish a value for are as follows:

- **Bank & Building Society accounts.**
- **Stocks & Shares**
- **Life Insurance & Endowment policies**
- **Employer benefits, e.g., Death in service benefit**
- **Any properties & land owned by the deceased.**
- **Furniture & other personal effects**
- **Investments such as ISAS & Unit Trusts**
- **Insurance company benefits, e.g. 'With Profit' Bonds**
- **Motor vehicles**
- **Art**
- **Jewellery**
- **Business assets**
- **National Savings & Investments products, e.g., premium bonds**
- **Interest in trusts**



It is important to be sure that the items included on the list are only those legally owned by the deceased and not, for example, hire purchase goods. Make a note of any assets that are owned jointly with someone else.



If you believe there are additional invests, savings or pensions that the deceased may have had, but unsure of the details see page 36 on how to find missing investments.

How to establish the value of an asset for probate and inheritance tax purposes

It is essential to find out the market value (realistic selling price) of all the assets owned by the deceased at the date of death.

Portcullis Wealth Retention Ltd can provide suitable letters to obtain this information as part of handling the Probate process.

Some assets may require detailed enquiries, and you may need to employ a professional.

For example, HM Revenue & Customs (HMRC) recommend that you use a professional (surveyor or estate agent) for establishing the Probate Value of land and buildings.

Property and land: Buildings and land should be valued at the 'open market value'. This means that the value you record should be a price that the asset can reasonably be expected to achieve, not the initial suggested asking price often used when a property is put on the market for sale.

It is important that the surveyor or estate agent is notified of this requirement. Where Inheritance Tax is due, you must supply a reasonably accurate valuation to satisfy HMRC that it is accurate. We recommend that an Executor request three values and takes the mean for the purposes of completing the form.

It's important to note that if the property is subsequently sold for a higher or lower price than declared on the initial HMRC forms, then additional forms can be submitted to request a reclaim of the overpaid tax or indeed to pay any additional tax due as a result of achieving a higher-than-expected value.

Life insurance and employer benefits: For life insurance policies and employer benefits such as 'death in service', enquire if they are held in trust, to be paid into the estate, or if the deceased nominated specific beneficiaries.

Bank/building Society accounts and shares: These are easy to value as the relevant organisation can confirm balances and values at the date of the deceased's death.


Furniture and personal effects: Where the deceased's estate will be subject to Inheritance Tax, obtain a full valuation of the furniture and effects of the estate. You can research valuations yourself using online auction sites such as eBay. Keep records of these valuations as proof.

If the prospect of this is too time-consuming and unappealing, consider using an auctioneer. They would also be able to organise a house clearance and auction

of any of the deceased's furniture and personal effects that have not been left in the Will, if required.

Vehicles: It is possible obtain valuations of motor vehicles through checking online sites such as Parker's Car Price Guide, What Car? or Autotrader.

Although we use "webuyanycar.com" as this will provide a trade price valuation based on the actual registration details of the vehicle and will in almost all circumstances provide the most accurate valuation to the vehicle as it's what someone is prepared to pay for the item.

	Ensure that you keep records of such valuations. When you have the figures for all of the above assets, add them together to achieve a total valuation.
---	--

If the deceased's assets are not immediately identifiable: If assets and liabilities are not immediately obvious, it will be necessary to undertake a thorough search of the deceased's home and locate any paperwork that may provide clues. It is advisable to ensure a reliable witness is present for such a search.

Paperwork may include bank and pension statements, and details of share dividends.

See **APPENDICES - Lost Pensions, Savings, Investment or NS&I** has extensive details of potential on-line search tools such as the free to use service **www.mylostaccount.org.uk** to establish details of any bank or building society accounts in the deceased's name. However, you should be aware that this search could take many months to complete.

The **Unclaimed Assets Register Service:** **www.uar.co.uk** charges £25 to conduct a search for holdings of unit trusts, life insurance policies and pensions.

Check for unclaimed Premium Bond prizes online at **www.nsandi.com**.

The deceased's last tax return is a good source of financial information. This will list all their income and

will give you some idea as to the extent of the estate's assets.

Contact people and organisations who may be able to provide other information. The deceased's family, friends, business associates, accountants, solicitor, financial adviser, stockbrokers, and banks may be able to help.

Identify any gifts made by the deceased: Identify and record any gifts that the deceased made which are not exempt from inheritance tax see point number 5 'Inheritance tax exemptions and reliefs' for further details.

In addition to gifts, you need identify and record the following:

Assets given away during the seven years before the death of the deceased.

Assets given away at any time in which the deceased retained an interest. An example of this would be a house, which the deceased gave away but in which they lived rent-free.

Deduct any Debts owed by the deceased: Establish the extent of any debts and liabilities owed by the deceased. Areas to consider are:

- ⊖ Outstanding mortgage balance(s) & secured loans
- ⊖ Bank overdrafts
- ⊖ Utility bills and / or council tax
- ⊖ Unsecured lending, e.g. credit cards and personal loans
- ⊖ Unpaid income tax liability
- ⊖ Funeral expenses

Record the Valuation: Keep copies of all the paperwork you have for obtaining valuations, as you will need these to complete the Inheritance Tax and Probate forms.

Having recorded and collated all the values of the estate on the date the deceased died. You now need to complete and submit the HMRC IHT forms & HMCTS Probate application.

PROBATE ADMINISTRATION - THE APPLICATION PHASE



Completing the HMRC & HMCTS form(s) & paying tax is mandatory even if there is no tax to pay. The Probate Registry will not entertain an application for probate without the accompanying inheritance tax form.

The forms required differ according to where the deceased lived and whether Inheritance Tax is due; IHT205 if the deceased's estate is worth less than the Inheritance Tax threshold and IHT400 if the value of the estate exceeds the threshold amount.

To establish which Inheritance Tax forms to use www.hmrc.gov.uk/inheritancetax/iht-probate-forms/find-right-forms.htm.

Complete the Inheritance tax Form in conjunction with the official guidance notes.

You will be able to access a great deal of useful information about Inheritance Tax, and copies of the appropriate forms, on the HMRC website: www.hmrc.gov.uk/inheritancetax/index.htm

Inheritance tax rates & allowances: Not everyone pays Inheritance Tax. It's only due if your estate - including any assets held in trust and gifts made within seven years of death - is valued over the current Inheritance Tax threshold (£325,000 in 2025-26).

⁵ The NRB will remain frozen at £325,000 until the next parliament. This will be 2028-29.

⁶ When the deceased has been predeceased by a spouse who had not used all their own NRB on their earlier death, the unused percentage on first death can be transferred to enhance the NRB of the surviving spouse on second death. The maximum percentage that can be transferred is 100% which would double the NRB available.

⁷ If the net value of the estate (after deducting any liabilities but before reliefs and exemptions) is above £2 million, the additional nil-rate band will be tapered away by £1 for every £2 that the net value exceeds that amount. The taper threshold at which the additional nil-rate band is gradually withdrawn will no longer rise in line with CPI.

⁸ The RNRB is only available to offset against the value of a residential property that is (or has been previously) used by

Most estates don't have to pay Inheritance Tax because they're valued at less than the threshold (£325,000 in 2025-26) £650,000 if married couple or civil partnership).

The tax is payable at 40% on the amount over this threshold or 36% if 10% of gross estate is donated to a registered charity.

The executors or **Personal Representatives** must transfer the first spouse or civil partner's unused Inheritance Tax threshold or 'nil rate band' to the second spouse or civil partner when they die.

Tax Rates & Main Exemptions:

TAX RATES		
Nil Rate Band [NRB]^{5, 6, 7}	IHT due on a Chargeable Lifetime Transfer [CLT] over the NRB	IHT due on Death over the NRB
£325,000	20%	40%
Residence Nil Rate Band [RNRB]^{8, 9}	IHT due on CLT more than RNRB¹⁰	IHT due on Death over the NRB¹¹
£175,000		40%

the deceased as their main residence and which is transferred on death to a lineal descendant, or the spouse or civil partner of a lineal descendant.

⁹ When the deceased has been predeceased by a spouse who had not used all of their own RNRB on their earlier death, the unused percentage on first death can be transferred to enhance the RNRB of the surviving spouse on second death. The maximum percentage that can be transferred is 100% which would double the RNRB available.

¹⁰ The RNRB is only available on death – it cannot be offset against lifetime transfers of a main residence.

¹¹ The RNRB, which is in addition to the normal ('any assets') NRB, is set off against any chargeable transfers of a main residence before any of the normal NRB is used up.

MAIN EXEMPT TRANSFERS	
	Maximum £
Gifts to a UK domiciled spouse	No limit
Gifts to a Non-UK domiciled spouse ¹²	£325,000 ¹
Gifts to charities	No limit
Gifts to political parties	No limit
Annual exemption	£3,000
Small gifts ¹³	£250
Normal expenditure out of income	No limit
Gifts in consideration of marriage	(see below)
Parents	£5,000 each
Grandparents and bride/groom to each other	£2,500 each
Any other person	£1,000

Inheritance tax exemptions and reliefs: On occasion, even if the deceased's estate exceeds the threshold amount, it is possible to pass on assets without having to pay Inheritance Tax.

Examples of this are as follows: Husband/wife or registered civil partner exemptions. Inheritance Tax is not payable on assets that pass to a spouse. Please note this does not apply to common law partners.

- **Charity exemptions.**
Any gifts either made to a qualifying charity, during the deceased's lifetime or left in their Will, are exempt from Inheritance Tax.
- **Potentially exempt transfers.**
If the deceased made a gift to a person seven years or more prior to their death then the gift is generally exempt from Inheritance Tax, no matter what the value of the gift was.
- **Annual exemptions.**
The deceased was entitled to give up to £3,000 away each year, either as one single gift or several adding up to this amount, without it incurring Inheritance Tax charges. It is also possible to use any unused amount of this allowance from the previous year.
- **Small gift exemptions.**
Any number of gifts of up to £250, to separate individuals, can be made tax-free.


¹² This £325,000 exemption applies to cumulative transfers. It is therefore necessary to consider previous gifts and transfers to a non-UK domiciled spouse to determine whether any of this exemption remains. It is also possible for a non-domiciled

- **Wedding and civil partnership gifts.**
Any gifts made to a person getting married or registering a civil partnership is tax-free, up to a set amount (which can be checked with HMRC).
- **Business, woodland, heritage, and Farm relief.**
If the deceased owned a business, farm, woodland or National Heritage property, their estate may benefit from some Inheritance Tax relief.

Transferring an unused inheritance tax threshold from a husband / wife: All estates are exempt from inheritance tax if their value is below the set threshold (£325,000 in 2025-26).

Since October 2007, it has been possible to use both a husband and wife's allowance, thereby doubling the threshold to £650,000. Please note this does not apply to 'common law' partners.

To transfer the allowance (called 'transferring the nil rate band' by HMRC), form IHT217 needs completing. The form can be downloaded.



Note: It is only possible to transfer the threshold upon the death of the second/surviving partner, which must have occurred on or after the 9th of October 2007. Although the date of death of the first partner will not prohibit the transfer, if it was before 1975 then it is possible the full nil rate bands may not be transferrable.

Calculating the threshold available to transfer: To make the transfer, calculate the percentage (not the value) of the threshold available. If the full estate of the first partner was left to the surviving husband/wife or civil partner, then 100 per cent of the threshold was unused. Even if the second partner dies at the same time, the full percentage can be transferred.

If the deceased made gifts to people in their lifetime that were not exempt from Inheritance Tax, deduct the value of these gifts from the threshold amount.

This will enable you to calculate the percentage available to transfer.

Supporting documents: The following documents are required relating to the first death:

- ✓ A copy of the valid Will if such exists.
- ✓ A copy of the Grant of Probate (or death certificate if no Grant was obtained).

spouse to instead make an irrevocable election to be treated as UK domiciled for IHT purposes.

¹³ The gift must be outright, not a gift into trust.

If you are having difficulty in obtaining these documents, the general register office should be able to send you a copy of the death certificate and the court service can provide copies of Wills and Grants of Representation.

Submitting the application: You have 24 months from the end of the month of the second partner's death in which to make your application to transfer the threshold. The HMRC website offers advice on which forms you will need:

<http://www.hmrc.gov.uk/inheritancetax/ihl-probate-forms/find-right-forms.htm>

Paying Inheritance Tax: Always obtain a reference number from HMRC where inheritance tax is payable. You can do this online at

www.hmrc.gov.uk/inheritancetax/online.htm The following information is required about the deceased:

- ✓ Full name
- ✓ Date of death
- ✓ Date of birth
- ✓ National Insurance number

Payment of Inheritance Tax is required either when you submit the form of account of the deceased's estate to HMRC, or else six months from the last day of the month in which the deceased died.

More information can be found at:

www.hmrc.gov.uk/inheritancetax/paying-ihl/payment-deadlines.htm

It is possible to pay the tax in ten equal annual instalments in respect of the following assets:

- ❖ Land and buildings, including agricultural land and property.
- ❖ Certain shares and securities.
- ❖ Net value of a business run for profit (this does not apply to the business assets). However, if you sell the asset then you must pay the amount of tax due in full.

Finding the money to pay Inheritance Tax: As you need the Grant of Probate or Letters of Administration to turn the deceased's assets into cash, yet the inheritance tax due must be paid to obtain the Grant of Representation, it can be difficult to work out how to pay the amount owed.

If the deceased had enough funds in a bank, building society or National Savings & Investments account then you can request that the account-holding institution pays HMRC direct or else sends you a cheque for the full amount, made payable to 'HMRC'.

Where there are not sufficient funds in accounts to pay the Inheritance Tax due, you should be able to obtain a loan from a bank or building society. Any interest

payable on this loan will be a liability of the estate of the deceased.


Completing the probate forms: Complete the Probate Application Form PA1. On the application form, state which Probate Registry interview venue you wish to attend the probate interview.

A list of venues is available here:

<http://www.justice.gov.uk/guidance/courts-and-tribunals/courts/probate/probate-registries.htm>

Along with the completed PA1 form, provide the following:

- ✓ An original copy of the death certificate as issued by the registry office, or a coroner's certificate.
- ✓ The original Will and any codicils (documents which amend the Will) in their original condition. Do not fasten anything to, or remove attachments from, these documents. Ensure that you keep a copy of each document and attachment you send.
- ✓ Any other document as specifically requested by HM Courts service, such as a copy of the decree absolute if the deceased was divorced.
- ✓ A cheque made payable to 'HM Courts & Tribunals Service' to cover the cost of the application fee and the number of official sealed copies of the Grant you require*. The current fees can be found in form PA3

	To give an idea of how many sealed copies to order, a minimum of five is recommended and ideally one sealed copy for each asset to be encashed / transferred. For example, a bank account should have its own sealed copy, as should Premium Bond holdings and building society accounts.
---	---

You should send your application to the Probate Registry office of your choice, details of which can be found here: www.justice.gov.uk/guidance/courts-and-tribunals/courts/probate/probate-registries.htm.

This flowchart details the application process for a Grant of Probate or Letters of Administration.

When your application is received, the Probate Registry will examine it and contact you with any queries.



Submit the application and supporting documents to your chosen Probate Registry. If you wish to have your application acknowledged, you should send a stamped, self-addressed envelope along with your paperwork.



If there are no problems or queries, you should expect to receive a letter from the Probate Registry within ten days after the application is submitted, inviting you to a mandatory interview at the venue you have chosen. This interview will usually be held within a month of the Probate Registry having received your application. Its main purpose is to verify the details you have provided on the form(s).



You will be required to sign a form of oath and to swear or affirm before the interviewing officer that the information you have provided is correct, to the best of your knowledge. In doing so, you will be given the opportunity to swear on the religious book of your choice.



You will need to take proof of identification to the interview, which includes a photograph, so a driving license or passport are ideal. Any other

requirements will be detailed in the letter inviting you to the interview.

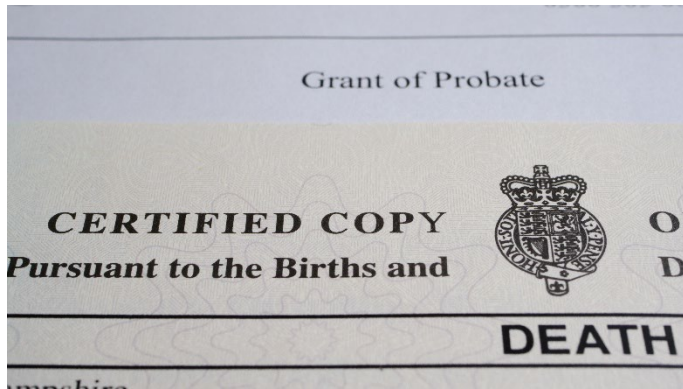


Following the interview, if there are no problems, you will be sent the original Grant of Probate or Letters of Administration and as many copies of the Grant as you have requested. The Probate Registry will retain the Will as this becomes a public record. You will also be sent the original death certificate. The interviewing officer should be able to advise on how long this will take. Chapter 5 details what you should do after the Grant has been received.

If there are any problems and the Grant is not issued, the reasons for this will be explained to you.

Next we look at what to do once you receive the Grant of Probate / Grant of Administration.

PROBATE ADMINISTRATION - THE GRANT PHASE



Once you get the certificate back from the HMRCTS you will need to register it with the appropriate organisations to realise the estate's assets (close bank accounts etc.).

Keep the original grant of representation (it is yellow in colour). Use only the court sealed office copies (white in colour), which bear an official stamp, to register the grant with the various organisations. Photocopies of the grant are not accepted.

Checking the Grant: Check that the details on the Grant (e.g., Name of deceased, details of **Personal Representative** and date of death) are all correct.

If any detail is incorrect, the error should be corrected at this stage of the process, immediately. This can be done by returning the original Grant and all court sealed copies to the Probate Registry, with details of the amendment required.

Other details contained within the Grant are the gross and net values of the deceased's estate.

Advertising for Creditors: Place an advertisement for creditors in the London Gazette as a notification of the death. This places any creditors on notice to make a claim for any monies owed.

In cases of Intestacy, where there is doubt regarding the creation of a later Will by the deceased, or where there is a missing beneficiary, you should also place a similar notice in a newspaper that covers the local area in which the deceased lived.

The reason for such notices is to offer a degree of protection to you, as you will be able to demonstrate your best efforts in locating all creditors and beneficiaries to the estate.

The notices give creditors two months from the date of the notice to make a claim against the estate.

Claimants can still recover any debts from the beneficiaries of the estate.

Claims made against the estate under the Inheritance (Provision for Family and Dependents) Act 1975 can be made within 6 months after the date probate was granted.



It is advisable to wait until 6 months has passed from the date of the grant of probate before making distributions to beneficiaries. This allows a claimant to come forward within this period. If you pay funds to a beneficiary and there is a successful claim against the estate, you may be personally liable.

Although there are other means of doing so, the author of this Guide uses a private company (The Legal & Public Notices Agency) to arrange notices in the London Gazette, and local newspapers, as they can obtain favourable rates.

You can arrange this service by telephone on 01438 350 990, or online at

<http://www.legalads.co.uk/trustee.act.html>

Alternatively, you can contact the London Gazette directly by telephone on 0870 600 3322, or online at: www.london-gazette.co.uk/place-notice. The cost of such notices is a valid expense of the estate.

Collecting in the assets of the estate: Write to the asset holding organisations enclosing a court sealed copy of the Grant of Representation.

Follow the instructions provided by the organisation e.g., Complete any account closure or withdrawal forms sent to you after the death was registered.

Instruct the organisation to pay the funds directly into the executors account or issue a cheque. The cheque should be made payable to the corresponding name on the executors account otherwise it may present difficulties depositing the cheque with the bank.

DEALING WITH THE DECEASED'S PROPERTY

Sole ownership: If the deceased owned a property in their name only, the property is inherited by the person(s) named in the Will, or whoever is entitled to inherit under the intestacy rules where there is no Will.

The property either will have to be transferred into the name of the beneficiaries (using Land Registry forms AS1 and AP1) or placed on the market for sale.

Once the sale is finalised, distribute the net proceeds of sale between the beneficiaries in accordance with the Will or intestacy rules where there is no Will.

Joint ownership: When two or more people own a property together, ownership is either under a legal arrangement called ‘joint tenants’ or ‘tenants in common’ (the use of the word ‘tenants’ here has nothing to do with renting a property).

Ownership as ‘joint tenants’: If two or more people own a property together as ‘joint tenants’ it means that when one of them dies their share of the property automatically passes to the surviving joint owner(s), regardless of the terms of the Will or intestacy rules.

To change the ownership of a property held as ‘joint tenants’, complete the Land Registry form ‘DJP’. Please follow this link to access the form:

<http://www1.landregistry.gov.uk/publications/forms>

To find out which Land Registry office to send the form to, establish which Local Authority covers the property. The easiest way to find out is to check the Council Tax bill.

Once you know which Local Authority has jurisdiction follow this internet link to identify the correct Land Registry office.

<https://www.gov.uk/government/publications/land-registry-office-addresses/office-addresses>

Ownership as ‘tenants in common’ : In this instance, the deceased’s property does not pass automatically to the surviving joint owner(s), as it does with “joint tenants”. Their share of the property will instead form part of their estate to be distributed in accordance with the Will or the intestacy rules if there isn’t a Will.

In these circumstances, HM Land Registry forms AP1 & AS1 need completing to transfer ownership of the deceased share to the beneficiaries.


Alternatively, if you do not want to complete these forms yourself, we can administer the Probate and Land Registry process for you, subject to an agreed fee.

How to find out whether a property is owned as joint tenants or tenants in common: To find out whether a property is owned as joint tenants or tenants in common check the HM Land Registry website and pay a small fee (2015 currently £3.00).


<https://www.gov.uk/topic/land-registration/searches-fees-forms>

Download and check the “title register.”

Find the “proprietorship register” section and look for the following clause:

	<p>‘RESTRICTION: No disposition by a sole proprietor of the registered estate (except a trust corporation) under which capital money arises is to be registered unless authorised by an order of the court.’ This clause indicates that the property is owned as tenants in common. In short, this means that the deceased’s share of the property should pass in accordance with the Will (or Intestacy rules if there is no Will) rather than automatically pass to the other joint owner(s).</p>
---	--

If this clause isn’t present, you can presume the property is owned as joint tenants in the absence of any evidence to the contrary.


	<p>Note: this online service is only available for properties with registered title. This will become apparent when checking the Land Registry website. If the property has unregistered title, you will need to locate the title deeds and seek advice from a licensed conveyancer or solicitor.</p>
---	--

If the property is mortgaged: If there is an outstanding mortgage, the mortgage lender will either require the repayment of the mortgage or ask the beneficiary to take over the mortgage (subject to the usual underwriting requirements).

If a sale of the property is taking place, the conveyancing solicitor will repay the mortgage from the proceeds of sale.

Paying debts and liabilities: As soon as the cash funds of the estate are released, whether direct from financial accounts or from the sale of stocks/shares/other assets, pay the deceased’s debts as soon as possible.

Don’t forget to ask the creditor for a receipt. In addition to existing debts, it is likely that testamentary expenses (e.g., Costs of obtaining a grant of representation & professional fees) will have arisen during administration of the estate.

	<p>Please note that an executor cannot charge for his time in carrying out his duties, unless these form part of his usual profession or business, e.g., Financial Adviser, Solicitor or Accountant.</p>
---	--

Personal Representatives’ duty to pay debts: Although there is no legal time limit for the payment of debts incurred prior to the death of the deceased, there is a requirement to pay them with ‘due diligence’.

It should be noted that no contrary provision in a Will could vary the duty to pay debts to creditors.

Dealing with capital gains tax and income tax: Capital Gains Tax (CGT) is only applicable if it exceeds the set amount of exemption within a tax year (in 2025-26 this amount is £3,000).

Capital gains up to the date of death: If the deceased has realised any assets in the tax year in which the death occurs, then details of these must be included on the deceased's income tax return up to the date of death. Pay any tax due from the estate.

Capital gains after death: Any gains made by the estate will also be liable for tax during the period of administration from the date of death to the end of the distribution of the estate.

If the deceased's assets are sold for more than their value at the deceased's death, with a gain of more than the annual allowance (£3,000 for the tax year 2025-26), there may be Capital Gains Tax to pay.

If capital gains tax is likely to be payable by the estate, it is advisable to seek the advice of an accountant to minimise the risk of an error being made. The costs of such professional fees are a valid expense of the estate.

Income tax: Income tax is applicable to the deceased's estate according to the tax year in which income is received. It is possible to offset interest paid during that same tax year on any loans taken out to pay for inheritance tax against the income tax bill. Some of the estate's assets may have been taxed at source, i.e., before they are paid to the estate.

This may be the case with the balance of a savings account, for example. However, other income such as rent will be paid directly to you without the deduction of tax. Where this is the case, it is taxable at the standard rate and no personal allowance is available to you.

Each beneficiary must account in their own tax return for their share of the income of the estate earned between

the death of the deceased and the distribution of the estate. However, the beneficiaries are entitled to credit for any tax paid on their share by you.

If a beneficiary is not liable for income tax, they can reclaim any tax deducted from their share.

If a beneficiary is a higher-rate taxpayer, then they will be liable for the difference between standard and higher rates of tax on their share.

It will be necessary to complete a short HMRC form (R185E) for each beneficiary affected, to enable him or her to deal with income tax implications relating to their share of the estate. The form will show the share of tax, and income, for each beneficiary.

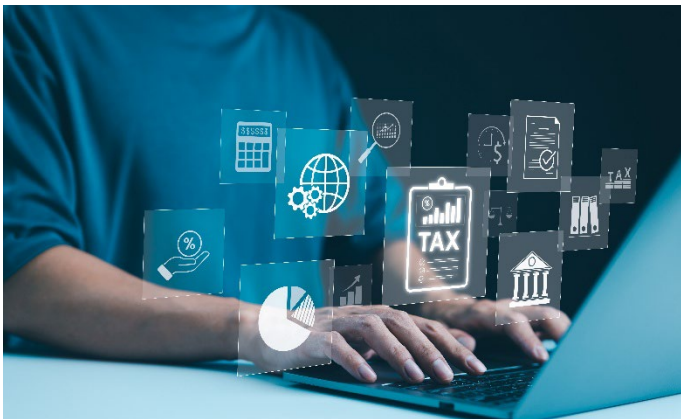
Obtain and complete HMRC form R27 for the estate if the deceased paid income tax. This form will enable you to claim any income tax payable to the estate. To complete this form, details of the deceased's income from April 6th in the year of their death, to the date of their death, will be required.

As with capital gains tax, if you are at all unsure about how to deal with income tax it is advisable to seek professional advice from a suitably qualified accountant. Again, such costs will be a valid expense of the estate.

Notifying the beneficiaries: It is advisable, but not mandatory, to write to all legatees and beneficiaries once in possession the Grant of Representation, to inform them of their entitlement and when they can expect to receive it.

Having gathered in all the assets, property and funds of the deceased estate it is now time to make the distributions in accordance with the deceased Last Will & Testament or laws of intestacy if no will was found. This is referred to as the fulfilment stage.

PROBATE ADMINISTRATION – THE FULFILMENT STAGE



This is the stage when the deceased's estate is distributed. Following the payment of the debts and liabilities, the residuary estate can be distributed to the beneficiaries.

PRECAUTIONS TO TAKE BEFORE DISTRIBUTING THE ESTATE

Statutory notices: Check the correct Statutory Notice has been placed. See Stage 3 for full details. It is advisable to wait 6 months from the date of the grant of probate before making any distributions to beneficiaries. This 6-month period allows any claims to be made against the estate.

Check relationships and identities: Where there is no Will (Intestacy), it is advisable to draw up a family tree of the deceased to illustrate who the next of kin are. Marriage, birth, and death certificates can support the details where appropriate.

It may be necessary, in cases where the details are not entirely clear and the sums involved are substantial, for you to employ a professional genealogist. They will provide you with a full family tree and confirm who is entitled to benefit from the estate.



Remember, you are personally liable if you distribute assets incorrectly. Beneficiaries should produce documentary evidence of their identity (Preferably with a photograph, such as a UK passport).

Obtain inheritance tax clearance: Following payment of inheritance tax, write to the tax office and request formal clearance before distributing any assets to beneficiaries.

Formal confirmation will be provided in the form of a signed and stamped letter. This letter will provide you with protection against any future unexpected claims for Inheritance Tax relating to the estate of the deceased.

Payment of Legacies in the Will: When handing over any gifts or legacies always obtain a receipt from the beneficiary.

Pecuniary legacies: Pecuniary legacies represent a gift of money. Payment of pecuniary legacies need to be finalised by the end of the 'executor's year', i.e., 12 months after the death of the deceased, unless there are instructions to the contrary.

If a payment of a legacy is not made in this time, the beneficiary is entitled to interest payable on the legacy as compensation for late payment.

Specific legacies: The term 'specific legacy' refers to an item (or group of items) bequeathed by the deceased, which must be distinguishable in the Will from other similar items.


For example, the testator must state in the Will 'my diamond engagement ring' (and not just 'a diamond ring' if they owned more than one) should pass to the beneficiary, for it to be a specific legacy.

If an asset is not described accurately or with enough detail to positively identify it, the gift will not be valid.

Ademption: If a bequeathed item is no longer part of the deceased's estate, the gift will no longer be valid – unless a suitable replacement has been made to the estate. This is known as 'ademption' and usually occurs due to the sale, gift, loss, or destruction of an item following the creation of the Will. Where this is the case, you should consider the following:


- ❖ **Is the gift a specific legacy, positively identified in the Will?**
For example, the Will may state, 'my diamond engagement ring'. If the deceased sold the diamond engagement ring, then the gift is deemed.
- ❖ **Can the gift be paid out of the general fund?**
For example, if the Will states '£1000 from my Santander savings account' are left to the deceased's daughter, but the Santander account has been closed, the £1000 could potentially be paid from elsewhere in the estate. However, if the wording was 'all of the savings in my Santander bank account' is left to the daughter and the account has been closed, the gift would be classed as deemed as the account no longer exists.

- ❖ **Has the gift been partially adeemed?**
For example, a gift bequeathed of '2000 BP shares' where the deceased subsequently sold 400 of these and so there are now only 1600 BP shares left. In this instance, the remaining shares would pass to the beneficiary.

 Note that ademption does not apply after the death of the deceased. If an asset is lost or damaged after the date of death, the beneficiary is still entitled to the specific gift, or insurance proceeds if appropriate.

Legacies to minor beneficiaries, bankrupts, and Persons of Unsound mind minor beneficiaries: Where bequests have been made to a beneficiary under the age of 18, you can only distribute the bequest to them (or their parent or guardian) if instructed to do so by the Will, or if the beneficiary is married or in a registered civil partnership.

Otherwise, the bequest should be retained in your name, or arrangements made it to be paid into court, until the beneficiary comes of age.

 Always seek professional advice from a solicitor in these circumstances.

Bankrupts No payment should be made to a beneficiary, or a creditor, who is bankrupt. Therefore, before distributing any assets (or paying any debts), it is your responsibility to confirm that this is not the case. Searches can be performed for free, online.

Alternatively, the Land Charges Registry will perform the appropriate searches for £2 each. Gifts bequeathed to a bankrupt beneficiary should instead be made to their trustee.

Persons of Unsound mind: If a beneficiary is of unsound mind, you should make any bequest to their appointed deputy or an attorney to the beneficiary.

PREPARING THE FINAL ESTATE ACCOUNTS

It is one of the responsibilities of a **Personal Representative** to compile and provide accurate accounts of the estate.

The financial information collated since the date of death needs putting into an organised report, to be signed by the personal representatives.

The accounts should include the following areas:

- ✓ Assets at the date of death.
- ✓ Liabilities at the date of death.

- ✓ Income received during the period of administration.
- ✓ Changes in asset value where appropriate e.g. an increase in property value.

Expenses incurred during the period of administration.

- ✓ Distribution of legacies and the residue estate to the beneficiaries.

Distributing the residuary estate: The residuary estate refers to the net estate after payment of all legacies, tax, debts, administration expenses and funeral costs.

Distribute the residuary estate as instructed by the Will or in accordance with Intestacy rules where no valid Will exists.

Before making this final distribution, ensure that there are no outstanding liabilities.

Provide a copy of the final estate accounts to the residuary beneficiaries while they receive their inheritance from the estate.

Ask the beneficiaries to sign a receipt – a suitable example is included in Appendix 1.

If a beneficiary is under the age of 18, a parent or guardian should sign for them. It is advisable to take professional advice in these circumstances. Supply a copy of HMRC Form R185E to each beneficiary, detailing any interest on the asset and any Income Tax paid on it.

Keep all paperwork for at least 12 years after the final distribution to the beneficiaries.

What to do about missing beneficiaries? If it is proving difficult to establish a beneficiary's contact details, try the following:

- ❖ Contact other people in the deceased's address book to see if they can help.
- ❖ Check the local telephone directories for the area in which the deceased lived. Bear in mind that people can elect to be ex-directory. If not ex-directory, an online check can be performed.
- ❖ Check the electoral registers local to the area where the deceased lived. However, people can opt for non-disclosure on the electoral register. Where this is the case, the Local Authority may be of help in forwarding a prepaid letter to the relevant address.
- ❖ Check maiden names as well as married names, where appropriate. These can be ascertained from copies of marriage certificates as available from the General Register Office.
- ❖ Placing the statutory advertisements for beneficiaries and creditors may produce some results.

- ❖ If required, the General Register Office can supply copies of birth, adoption, marriage, and death certificates from 1837 onwards. These can be applied for online or by post using the official forms. The Principal Probate Registry can provide copies of Wills, and Grants of Representation, which may also provide useful information.

If all else fails, professional genealogists, or tracing agencies may be able to help. This should be considered only if the sum involved justifies these costs.

When it proves impossible to locate a beneficiary, you should check the Will for any contingency instructions.

Otherwise, you should instruct a solicitor to apply to a court for alternative instructions or else to pay the bequest into court.

CLAIMS AGAINST AN ESTATE

ALL claims against the estate, whether justified or not will need to have been settled BEFORE the estate can be fully wound up and distributed to the named beneficiaries.

As briefly mentioned in previous sections, either a creditor or an individual may make a claim against an estate.

Unless the claim is straightforward, e.g., by a previously unknown creditor where the debt is not disputed, always seek advice from a solicitor.

A claimant must submit the claim within 6 months of the date of the Grant of Representation.

This period of six months may be extended by court rule, but it is the claimant's role to pursue this extension, and this will be only successful in exceptional circumstances.

The court will make its decision based on factors such as:

- ❖ The reasons for the delay.
- ❖ Whether the applicant has acted promptly.
- ❖ If distribution of the estate began before you were notified of the claim.
- ❖ Whether negotiations to settle the claim had commenced within the six-month period.

A claim against the estate may be made by an individual under the Inheritance (Provision for Family and Dependents) Act 1975.

Claims may be made by:

- ❖ A wife, husband, or registered civil partner.
- ❖ A former wife, former husband or former civil partner who has not remarried or entered a subsequent civil partnership.
- ❖ Children of the deceased, including adopted children.
- ❖ Any person who was treated as a child of any marriage or civil partnership (current or previous) in which the deceased was party.
- ❖ Any person considering him or herself to have been maintained substantially by the deceased materially before the death (this does not include payment of debts).
- ❖ A common law partner, who cohabited with the deceased for a minimum of two years prior to the death, can make a claim without having to prove that the deceased was responsible for their maintenance.
- ❖ Proprietary Estoppel (see [GLOSSARY](#))



If any such claims are made against the estate, the DIY Probate Executor should seek immediate advice from a suitably qualified solicitor.



PORTCULLIS

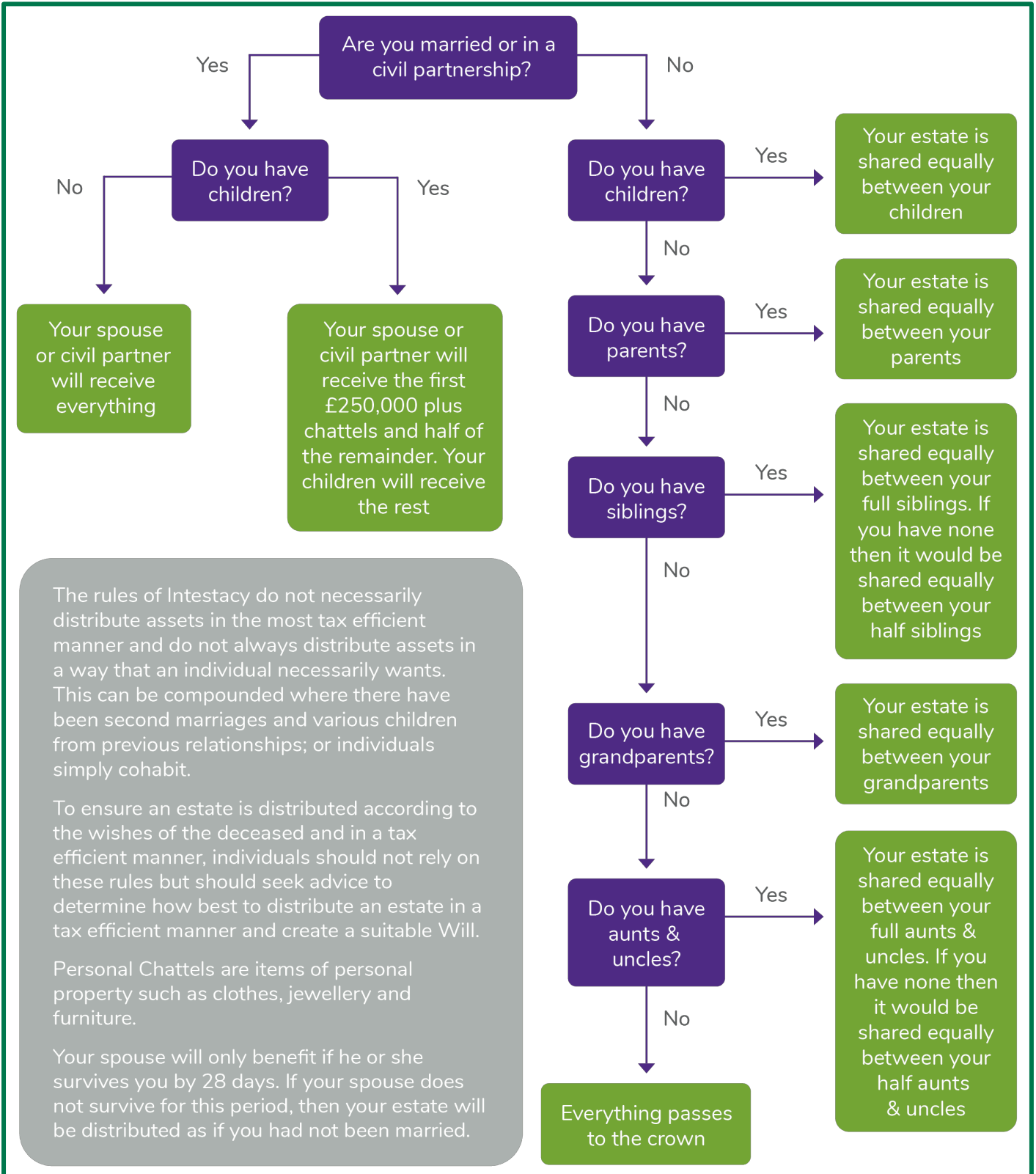
WEALTH RETENTION LTD

APPENDICES

LAWS OF INTESTACY.

The Intestacy rules – Who Inherits What

Updated intestacy rules came into force on 1st Oct 2014, the first change of its kind since 1926, it has changed the way in which relatives inherit assets from someone who has died without leaving a Last Will & Testament. See the flowchart below for full details:



Data correct @ 18.03.2025

Definition of ‘chattels.’ The legal definition for chattels has changed to include anything that is not; monetary, business assets or held as an investment.

What are the rules of intestacy? When a person dies without leaving a valid will, their property (the estate) must be shared out according to certain rules. These are called the **Laws of Intestacy**. A person who dies without leaving a will is called an “intestate person.” Only married or civil partners and some other close relatives can inherit under the Laws of Intestacy.

Further if someone makes a Will but it is not legally valid (*usually due to mental health issues at time of instruction, incorrectly witnessed or defaced in some way bringing its validity into question*), the Laws of Intestacy decide how the estate will be shared out, not the wishes expressed in the invalid Will.

Married couples/civil partners with no children.

Married spouses are now entitled to the whole estate if their husband / wife dies without a Will, and they have no children.

Jointly owned property: Couples may jointly own their home. There are two different ways of jointly owning a home. These are beneficial joint tenancies and tenancies in common.

If the partners were beneficial joint tenants at the time of the death, when the first partner dies, the surviving partner will automatically inherit the other partner's share of the property.

However, if the partners are tenants in common, the surviving partner does not automatically inherit the other person's share.

Couples may also have joint bank or building society accounts. If one dies, the other partner will automatically inherit the whole of the money.

Property and money that the surviving partner inherits does not count as part of the estate of the person who has died when it is being valued for the intestacy rules.

Close Relatives:

Children: Children of the intestate person will inherit all the estate if there is no surviving married or civil partner. If there is a surviving partner, they will inherit only if the estate is worth more than a certain amount.

Children - if there is no surviving married or civil partner: If there is no surviving partner, the children of a person who has died without leaving a will inherit the

whole estate. This applies however much the estate is worth.

If there are two or more children, the estate will be divided equally between them. Note its only direct children of the deceased that inherit.



Blended families, i.e., families with children from different partners that are not blood-related to the deceased will not inherit under intestacy rules.

Married couples and civil partners with children:

Surviving spouse receives the first £250,000 of the estate and any personal belongings. Instead of receiving life interest in 50% of the remaining balance, they now receive it as an outright payment. The remaining 50% goes to the deceased's children.

Adopted children.

A child of the deceased will inherit even if they are subsequently adopted by a new parent.

If there is a surviving partner, a child only inherits from the estate if the estate is valued at over £250,000. If there are two or more children, the children will inherit in equal shares:

- ❖ One half of the value of the estate above £250,000 and
- ❖ The other half of the value of the estate above £250,000 when the surviving partner dies.
- ❖ All the children of the parent who has died intestate inherit equally from the estate. This also applies where a parent has children from different relationships.
- ❖ A child whose parents are not married or have not registered a civil partnership can inherit from the estate of a parent who dies intestate. These children can also inherit from grandparents or great-grandparents who have died intestate.
- ❖ Adopted children (*including stepchildren who have been adopted by their stepparent*) have rights to inherit under the rules of intestacy. Otherwise, you must be a biological child to inherit.
- ❖ Children do not receive their inheritance immediately. They receive it when they:
 - ❖ Reach the age of 18, or
 - ❖ Marry or form a civil partnership age 16+.
 - ❖ Until then, Trustees manage the inheritance on their behalf.

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

- ❖ Other relatives may a right to inherit if the person who died intestate had no surviving married partner or civil partner, children, grandchildren, great

grandchildren, parents, brothers, sisters, nephews, or nieces.

- ❖ 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 will inherit equal shares of the share to which their parent or grandparent would have been entitled.

Parents, brothers and sisters and nieces and nephews of the intestate person may inherit under the rules of intestacy. This will depend on many circumstances:

- ❖ Whether there is a surviving married or civil partner
- ❖ Whether there are children, grandchildren, or great grandchildren.
- ❖ In the case of nephews and nieces, whether the parent directly related to the person who has died is also dead.
- ❖ The amount of the estate.

If a person has no surviving children or direct descendants (great grandchildren etc.): The estate will be inherited in this order:

1. Your parents.
2. Whole blood brothers and sisters, or their children if your siblings have not survived you.
3. Half blood brothers and sisters, or their children if there is no surviving parent.
4. Your grandparents.
5. Your whole blood uncles and aunts, or their children.
6. Half-blood uncles and aunts or their children.
7. The Crown

Who Cannot Inherit? The following people have no right to inherit where someone dies without leaving a will:


- ✘ Unmarried partners or same sex partners not in a civil partnership.
- ✘ “In law” relations by marriage.
- ✘ Close friends / carers


Unmarried couples: Despite pressure to allow people who have lived together for a number of years to inherit some part of their partner's estate, the new intestacy laws still make no provision for ‘common law’ partners – even those who have children with the deceased. The only way non married partners can inherit each other's estate is to make a will.


However, even if you can't inherit under the rules of intestacy, you may be able to apply to court for financial provision from the estate.

If there are no surviving relatives?: If there are no surviving relatives who can inherit under the rules of intestacy, the estate passes to the crown. This is known as “Bona Vacantia.” The treasury solicitor is then 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 will need legal advice, for more information about “Bona Vacantia.” go to the gov.uk website at www.gov.uk.

	<p>Other than husbands/wives/civil partners, only blood and adoptive relatives count – no step relations (related by marriage only).</p> <p>Adoption means that the birth relationship between birth parent and child is severed. A child who has been adopted will not inherit anything from their birth family (neither will their birth family inherit from them).</p>
---	---

	<p>Adoption also creates a relationship between the adopted child and adopter, which means that they are entitled in the same way as whole blood relatives.</p> <p>Illegitimacy is not relevant in this area of law so all children, whether illegitimate or legitimate, have equal rights.</p>
---	---

	<p>A note regarding “Common Law Partners” and Claimants. If your partner dies and has not left a Will, and you were not their married or registered civil partner, then you may not be automatically entitled to a share of your partner's estate.</p> <p>If your partner did not provide for you in some other way, then you should consider making a claim against the estate. A claim can be made in accordance with the Inheritance (Provision for Family and Dependents) Act 1975.</p> <p>You should always seek legal advice in these circumstances, to ensure you are fully informed and that you proceed in the correct way.</p>
---	---

LOST PENSIONS, SAVINGS, INVESTMENT OR NS&I:

Sometimes a person dies very suddenly and maybe didn't have time to sort out their affairs or simply didn't keep paper copies of correspondence, policy documents or other written records.

In many cases with the advent of cloud storage and a drive to be clutter free or paper free, we have seen situations where a person dies, and all the records and files are held in encrypted storage that the Executor/s or immediate family or friends have no idea how to access.

In other circumstances it may simply be that over time the investment provider has lost touch with the deceased. Whatever the situation there are some potential remedies.

Lost Pensions: Contact the Pension Tracing Service. If you're still struggling to make progress, you can contact the Pension Tracing Service. This could be because you can't find the contact details of an old employer, or you don't know the provider of a personal pension.

The Pension Tracing Service is a free government service. It searches a database of more than 200,000 workplace and personal pension schemes to try to find the contact details you need.

You can phone the Pension Tracing Service on **0800 731 0193** or use the link below to search their online directory for contact details.

Submit a tracing request form to the Pension Service via GOV.UK:

<https://www.findpensioncontacts.service.gov.uk/>

If you want to find out more about the Pension Tracing Service:

<https://www.gov.uk/find-pension-contact-details>

You will need to know the deceased, National Insurance Number, ideally previous addresses, and former employers. etc. this should be an easy service to use and is free and Govt. run, rather than a scheme offered by a pension provider seeking to get new customers.

It's important **not to pay** anyone to search for your old bank, building society or NS&I account. Instead, use the free online service at My Lost Account, it was set up by the British Bankers' Association, the Building Societies Association and National Savings and Investments (NS&I):

<http://www.mylostaccount.org.uk/>

If your account is held overseas, you'll need to get in touch with the bank or savings institution holding the account. It can only be used to track down inactive accounts that haven't been used for at least three years.

GRETEL, this is also a free to use service you can use to trace lost accounts, pensions, and investments. It will attempt to trace investments every 14 days using basic information like name, current address, and date of birth.

You do not need to know the names of the investment providers or your policy numbers. Find out more on how to locate bank accounts, investments, and pensions at Gretel:

<https://www.gretel.co.uk/>

USEFUL CONTACTS

These lists are not exhaustive, internet search engines are a great source of information, as are the FCA Register for regulated businesses.

Banks & Building Societies

Bereavement Services Barclays Bank Barclays Service Centre 20 Caswell Road, Sydenham Industrial Estate, Leamington Spa CV31 1QD	Barclaycard PO Box 5402 Northampton NN4 1ZR	Bradford & Bingley PO Box 88 Crossflatts Bingley BD16 2UA
Bristol & West plc One Temple Back East Temple Quay Bristol BS1 6DX	Britannia Building Society Britannia House Leek Staffs ST13 5RG	Co-operative Bank plc P.O. Box 101, 1 Balloon Street, Manchester, M60 4EP
Halifax Bereavement Service Centre PO Box 692 Leeds LS1 9EJ	HSBC Harry Weston Road Binley Coventry CV3 2TQ	Lloyds TSB Estate Settlement Unit Dept 62-42 Po Box 4 BX1 1LT
National Savings & Investments Glasgow G58 1SB	Nationwide Building Society Bereavement Services Pipers Way Swindon SN38 3FN	Natwest PO Box 2027 De Havilland Way Horwich Bolton BL6 4YU
Post Office Customer Service Centre PO Box 567 Preston PR1 2WX	RBS Estates Team PO Box 2027 De havilland Way Horwich BL6 4YU	Santander Probate & Bereavement Centre PO Box 524 Bradford BD1 5HZ
Tesco Personal Finance The Estates Team Tay House 300 Bath Street Glasgow G2 4RS	Yorkshire Bank Estate Admin Bering House Mariner Court Clydebank Business Park Glasgow G81 2NR	

State Benefits, Tax & Utilities

Anglian Water Customer Services PO Box 10642 Harlow CM20 9HA	British Gas Probate Dept. PO Box 3055 Eastbourne BN21 9FE	BT Correspondence Centre Providence Row Durham DH98 1BT
Dept for Work & Pensions Disability & Carers Service Warbreck House Warbreck Hill Blackpool FY2 0YE	Dept. for Work & Pensions The Pension Service PO Box 1005 Newcastle Upon Tyne NE98 1WZ	Essex & Suffolk Water PO Box 600 Durham DH1 9NW

EDF Energy FREEPOST RRYZ-BGYG-JCXR 334 Outland Road Plymouth PL3 5TU	E.ON PO Box 7750 Nottingham NG1 6WR	PAYE & Self-Assessment HMRC BX9 1AS United Kingdom
HMRC Inheritance Tax Ferrers House PO Box 38 Castle Meadow Road Nottingham NG2 1BB	N Power PO Box 177. Houghton le Spring DH4 9AQ	Post Office Mail Redirection Complete Special Circumstance Application Form Either Post or give to local Post Office.
Plusnet Broadband The Balance 2 Pinfold Street Sheffield S1 2GU	Scottish Power 1 Atlantic Quay Glasgow G2 8SP	Sky Digital 4 McIntosh Road Kirkton Campus Livingston West Lothian EA547BW
Southern Electric Customer Service PO Box 7506 Perth PH1 3QR	SSE Inveralmond House, 200 Dunkeld Road, Perth, PH1 3AQ.	Talk Talk Broadband 11 Evesham Street London W11 4AR
Thames Water PO Box 286 Swindon SN38 2RA	TV Licensing PO Box 336 Bristol BS99 5HP	Utility Warehouse Network HQ 508 Edgware Road The Hyde London NW9 5AB
Virgin Media PO Box 333 Matrix Court Swansea SA7 9ZJ		

Insurance, Investment, Pensions & Share Administration

Customer Services Aegon, Edinburgh Park, Edinburgh, EH12 9SE	Aviva, PO Box 4, Surrey Street, Norwich NR1 3NG	Capita Registrars The Registry 34 Beckenham Road Beckenham Kent BR3 4TU
Computershare Investor Services plc PO Box 82 The Pavilions Bridgwater Road Bristol BS99 7NH	Equiniti Registrars Aspect House Spencer Road Lancing BN99 6DA	Death Claims – Life & Investment Legal & General City Park The Droveaway Hove East Sussex BN3 7PY
Death Claims – ISA and Unit Trusts Legal & General Investments PO Box 6080 Wolverhampton WV1 9RB	Neville Registrars Limited Neville House 18 Laurel Lane Halesowen B63 3DA	Prudential Life & Pensions Payments Centre Stirling FK9 4UE

Royal London Insurance Royal London House Alderley Road Wilmslow SK9 1PF	Teachers' Pensions Mowden Hall Darlington DL3 9EE	Tesco Personal Finance The Estates Team Tay House 300 Bath Street Glasgow G2 4RS
NHS Pensions Hesketh House 200-220 Broadway Fleetwood Lancashire FY7 8LG	Standard Life, Bereavement Team, Dundas House, 20 Brandon Street, Edinburgh. EH3 5PP	Zurich Assurance Ltd UK Life Centre Station Road Swindon SN1 1EL

Investment providers that no longer exist:

Over the last 20 years a very large number of companies have been mothballed, merged, acquired or stopped trading the clear majority are now part of one of two businesses Phoenix Life or ReAssure.

Using the following link, you can establish the correct address www.phoenixlife.co.uk/customer-centre.aspx# in all cases they are administered from one of three UK addresses:


Phoenix Life, PO Box 1243, Peterborough, PE2 2LD	Phoenix Life 301 St Vincent Street Glasgow G2 5NB	Phoenix Life Legacy Team PO Box 1979 Liverpool L69 3ED
Alba Life	Alba Life Ltd.	Allianz Cornhill
Allianz Cornhill Ins. plc	Beacon Ins. Co. Ltd.	Black Sea & Baltic Gen. Ins. Co. Ltd.
Blackburn Assce. Ltd.	Blackburn Philanthropic Burial Soc.	Bradford Ins. Co. Ltd. - endowments
Bradford Ins. Co. Ltd. - Pen.	Bristol West of Eng. & South Wales Friendly Collecting Soc.	
Britannia Life Assoc of Scot	Britannia Life Ltd.	Britannic
Britannic Assce. Co. Ltd.	Britannic Assce. plc	Britannic Money Inv Serv Ltd.
Britannic Retirement Sol Ltd.	Britannic Unit Linked Assce. Ltd.	British Legal Life Assce. Co. Ltd.
Century Grp.	Century Life	Century Life plc
City of Birmingham Friendly Soc.	City of Edinburgh Life Assce. Co. Ltd.	Colonial Life Ins. Co. (UK)
Consumers Life Ins. Co. Ltd.	Credit & Commerce Life Assce. Ltd.	Crescent Life
Crown Assce. Co.	Crusader Ins. Co. Ltd.	Crusader Ins. plc
Ebor Phoenix Assce. Co. Ltd.	Equico Intl. Ltd.	Evergreen Retirement Assce. Ltd.
Foreman & Staff Mutual Benefit Soc.	FS Assce. Ltd.	Globe Ins. Co. Ltd.
Growth & Secured Life Assce. Soc. Ltd.	Hiscox Ins. Co. Ltd.	Lamont Life Assce. Co.
Langham Life Assce. Co. Ltd.	LAS Investment Assce.	LAS Pen. Management
Law Union & Rock Ins. Co. Ltd.	Life Assoc of Scot Ltd.	Liverpool London & Globe Ins. Co. Ltd.
Lloyds Life Assce.	London Assce.	London Life
London Life Ltd.	London Life Linked Assce. Ltd.	Loyal Endeavour Friendly Soc.
Mutual Life Assce.	National Australia Life Co. Ltd.	National Employers Life Assce. Co. Ltd.
National Friendly Collecting Soc.	National Provident Life Ltd.	NEL Britannia Assce. Co.
NPI & National Provident Life.	NPI Ltd.	Old Mutual Life Assce. Co. Ltd.
Oxford Life Assce. Co. Ltd.	Pearl Assce.	Pearl Assce. (Unit Funds) Ltd.
Pearl Assce. (Unit Linked Pen.) Ltd.	Pearl Assce. Ltd.	Pearl Assce. plc
PFM Assce. Ltd.	Phoenix & London Assce. Ltd.	Phoenix Assce. Ltd.
Phoenix Assce. plc	Phoenix Life & Pen. Ltd.	Pioneer Life Assce. Co.
Pioneer Mutual Ins. Co. Ltd.	Preston Philanthropic	Prolific Life & Pen. Ltd.

Property Growth Assce. Co.	Property Growth Pen. & Annuities Ltd.	Prosperity Financial Services Ltd.
Prosperity Life Assce.	Providence Capitol Life Assce. Co. Ltd.	Provincial Life Assce. (Pen.) Co. Ltd.
Provincial Life Assce. Co. Ltd.	Provincial Pen. Ltd.	Royal & Sun Alliance
Royal & Sun Alliance Life & Pen. Ltd.	Royal & Sun Alliance Linked Ins. Ltd.	Royal Co-operative Benefit Soc.
Royal Co-operative Collecting Soc.	Royal Heritage Life Assce. Ltd.	Royal Ins. (1968 Fund) Ltd.
Royal Ins. Co. Ltd.	Royal Life (Unit Linked Assce) Ltd.	Royal Life (Unit Linked Pen Fnds) Ltd.
Royal Life Ins. Ltd.	Scottish Mutual	Scottish Mutual Assce. Ltd.
Scot Mut Assce. plc	Scot Mut Assce. Soc.	Scot Prov
Scot Prov Assce. Ltd.	Scot Prov Inst.	Scot Prov Ltd.
Scot Prov Man Pens Fnds Ltd.	Scot Temp & Gen. Assce. Co. Ltd.	Scot Temp Life Assce. Soc.
Sentinel Life plc.	Shield Assce. Ltd.	Stamford Mutual Ins. Co. Ltd.
Sun Alliance & London Assce. Co. Ltd.	Sun Alliance Linked Life Ins. Ltd.	Sun Alliance Pen Ltd.
Swiss Life (UK)	Swiss Life (UK) plc	Swiss Pioneer Life plc
UK Life Assce. Co. Ltd.	Unit Assce. Co.	

Another large consolidator is ReAssure, like Phoenix above all policies are administered from one base-

ReAssure
Windsor House
Telford Centre
Shropshire
TF3 4NB

Aegon	Aetna Life.	Alico UK
Bank of Ireland.	Barclays Life Assce Co. Ltd	Combined Life
Continental Life	Crown Fin Mangt	GAN UK plc.
GE Life.	Gresham Life.	Grosvenor Life.
Life Casualty & General Ins Co Ltd.	Lifetime.	New Zealand Life.
NM Life.	NM Pension Ltd.	Occidental Life Ins Co Ltd.
Reassure UK.	RFSG (UK) plc.	Swiss Re.
UK Life.	Virgin Money Life.	Windsor Life Assce Co Ltd.




This list is not exhaustive, and you may need to use the Internet or simply take references and details from existing paperwork.

Examination of the deceased bank statements to find Direct Debits etc. may also provide clues of other insurances, pensions, investments, or savings.

Income payments may also show sources of income the deceased received that may not be immediately apparent from the paperwork you find.

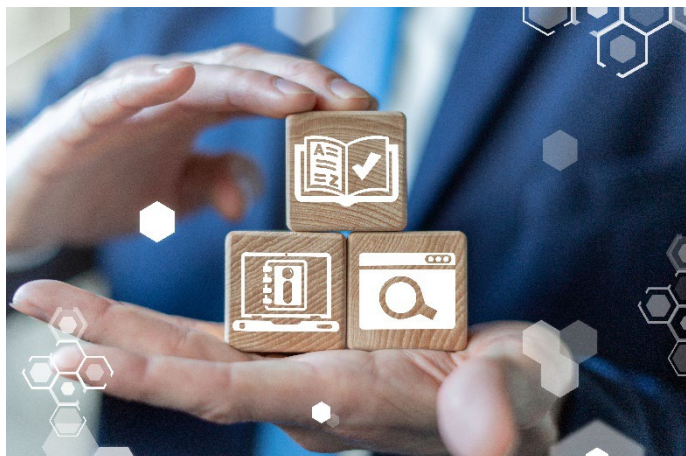


Royal Mail post redirection and the Governments “Tell US Once” service should be very high up on the list of people to contact.



You’ll have to let the relevant organisations know about the death yourself if your local register office doesn’t offer the “Tell Us Once” service or you choose not to use it.

GLOSSARY



Abatement: A reduction of the number of legacies, debts, or claims where an estate is insufficient to pay all in full. This is normally made pro rata.

Accumulation: The retaining and re-investment of interest.

Accepted estate: An estate where no inheritance tax is due if certain criteria are fulfilled.

Adeem/ademption: Either the complete or partial extinction of a specific bequest because of the deceased having gifted, sold, or otherwise disposed of it during his lifetime, other than by revocation.

Administering an Estate: When a person dies, there will often be money, property and assets that belonged to that person which are held in his name. These are referred to as his “Estate.”

The term “administering an estate” refers to the task of collecting in the money, property, and assets of the deceased person, paying his debts and funeral expenses, sorting out any outstanding tax affairs, and paying what remains to his heirs (by reference to his Will if he left a Will).

Administration period: The period between the date of death and the date of the close of administration.

Administrator: The legal representatives of a deceased person who has died without a Will, they are usually the closest relatives of the deceased.

Agreed value: The probate value as formally agreed by HMRC Inheritance Tax where inheritance tax is payable. HMRC may seek verification of the values from the District Valuer.

Apportionment: The division of income in proportionate shares between certain beneficiaries, calculated daily.

Appropriation: The transfer of an asset, instead of its sale proceeds, because of a legacy or share of residue.

Attorney: A person appointed by another to act in his place.

Beneficiary: A person entitled to receive funds or property under a Will or intestacy.

Bequest: A gift of chattels/assets in the Will.

CGT: Capital Gains Tax.

Clearance certificate/certificate of discharge: A certificate issued by HMRC Inheritance Tax releasing a person liable to inheritance tax from paying further inheritance tax.

Codicil: A written amendment to a Will.

Deed of Variation: Enables beneficiaries of a deceased’s estate to alter the distribution of the Will or intestacy rules.

Disbursement: A payment made to a third party.

Estate: All the assets and liabilities of a deceased person- such as property, shares, cash, savings, and investments as well as outstanding debts.

Estate accounts: Accounts recording the financial transactions during the administration period.

Executor: A person appointment by a Will or codicil to administer the estate.

Executrix: A female Executor.

Gift: A transfer of money or assets.

Grant Of Representation (often referred to as “**Grant Of Probate**”) This is obtained from the Probate Registry following a death. The Grant will be made to the **Personal Representatives** (Executors or their proxy) where there is a Will and to the **Estate Administrator** (the Probate applicant) where there is no Will. This document is called a **Grant of Letters of Administration** where there is no Will. A deceased person’s estate can be wound up once the Grant of Representation has been obtained.

Inheritance tax (IHT): The tax paid by the estate if the deceased when that person dies.

Intestacy: The situation where a person dies without making a Will, the administration of “intestate” estate is governed by the Administration of Estates Act 1925.

Intestacy- rules of Intestacy: These are the rules that set who will inherit the Estate of someone who has died without leaving a valid Will. Intestate. If person who has died without leaving a Will they are said to have died “intestate.”

Issue: Children, grandchildren, or remoter lineal descendants.

Joint tenants: If two or more people own a property together as ‘joint tenants’ it means that when one of them dies their share of the property automatically passes to the surviving joint owner(s), regardless of the terms of the Will or intestacy rules. (See also “Tenants in Common”)

Legacy: A Legacy is gift of personal property made by a Will.

Legacy- Pecuniary Legacy: A Pecuniary Legacy is a gift of money made by a Will e.g., “I give John Smith the sum of £500”.

Legacy- Specific Legacy: A Specific Legacy is a gift of a specific item of property made by a Will e.g., “I give John Smith my gold watch.”
Letters of administration

If the deceased died “intestate” i.e., Leaving no Will, or if the Will is invalid for any reason, the Grant is called a “Letters of Administration” and is sometimes referred to as “simple administration.”

Nil rate band: The value of assets, which a deceased person can leave to friends or family without having to pay any inheritance tax.

Personal chattels: Essentially personal effects. Does not include any chattels used at death for business purposes and any money or securities for money.

Personal Representative: A person who administers an Estate. The expression “**Personal Representative**” can mean either an Executor or an Administrator.

Power of attorney: Formal deed by which one person appoints another to act on his behalf or represent him.

Proprietary Estoppel: Proprietary Estoppel is a legal framework which can be used to stop a person or their Executors from going back on earlier verbal promises when the result of this would cause detriment to someone else. Proprietary estoppel, therefore, can be used to circumvent certain procedures typically required to establish a proprietary interest.

Renouncing probate: The act whereby a named **Personal Representative** sign a legal document, which cancels his/her appointment from the start.

Residuary beneficiary: The person entitled to the whole or part of the deceased’s estate after the payment of all debts, funeral and testamentary expenses and legacies.

Residuary estate/residue assets: What remains of the estate after payment of all debts, legacies and all taxes and expenses?

Specific Legacy: A part of a deceased’s estate.

Tenants in Common: If two or more people own property as ‘Tenants in common’ it means the deceased’s share of the property does not pass automatically to the surviving joint owner(s), as it does with joint tenants.

Their share of the property will instead form part of their estate to be distributed in accordance with the Will or the intestacy rules if there isn’t a Will.

See also ‘Joint Tenants’.

Testate: Dying, leaving a Will.

Testator: A deceased person who left a Will.

Trustee: Person who is holding assets on trust.

Vested interest: Right to immediate or future entitlement.

Personal Notes:

NEXT STEP:

Hopefully the above information has given you some insight into how best to deal with the probate process. For many it can be a bewildering and daunting prospect to have to deal with the role of Executor.

This is where experience counts and having been assisting clients with Probate, Wills & Trusts for several decades we believe we are well placed to assist, guide and lead the Executor through the probate process for less than the cost of a Solicitor, with a better insight into the Wealth Management side of the process.

Often where we were the author of the Will and Trust we will have first-hand knowledge of where the assets should be distributed and what the deceased's wishes were.

If you want to contact us, or are interested in receiving more details about any aspect of this guide and advice on how best to either use the details to your advantage or indeed make subtle changes to your financial plans to avoid some of the negative issues highlighted, please contact us:

-  **01245 967118**
-  **info@portcullisretention.com**
-  **www.portcullisretention.com**
-  **Goldlay House, 114 Parkway, Chelmsford, CM2 7PR**

Whilst all reasonable care has been taken in the preparation of this publication no liability is accepted under any circumstances by Portcullis Wealth Retention Ltd for any loss or damage occurring because of reliance on any statement, opinion, or any error or omission contained herein.

Any statement or opinion reflects our understanding of current or proposed legislation and regulation which may change without notice. The content of this document should not be regarded as specific advice in relation to the matters addressed.



James A Caviel and Portcullis Wealth Retention Ltd is a member of the self-regulatory body of the Society of Will Writers by examination. They regularly vet practitioners through stringent membership requirements, proficiency standards and ongoing professional training. Portcullis Wealth Retention Ltd are registered in England & Wales at Companies House under no: 12264589. The registered office address is: Bellefield House, 104 New London Rd, Chelmsford CM2 0RG. www.portculliswr.com.

