

Probate and estate administration – Frequently Asked Questions (FAQs)

Click the links below to skip to each section.

1. [What to do on discovering a death](#)
2. [What happens when a death is reported to a coroner?](#)
3. [What happens when a death occurs outside the UK?](#)
4. [Who is responsible for dealing with the estate of a deceased person?](#)
5. [What are the responsibilities of a Personal Representative?](#)
6. [Do I have to act as the Executor/Personal Representative?](#)
7. [How much can the Personal Representative\(s\) do: how much does the Personal Representative need to do?](#)
8. [What is probate?](#)
9. [Who pays for probate?](#)
10. [Who can apply for probate?](#)
11. [How do you obtain probate?](#)
12. [How much does it cost to obtain probate?](#)
13. [How long does it take to obtain probate?](#)
14. [What is a Grant of Representation?](#)
15. [When is a Grant of Representation needed?](#)
16. [What is the Administration Period?](#)

[Get in touch](#)

[Back to probate and estate administration](#) 

1. What to do on discovering a death

Death at Home

If death occurs at home, the deceased's GP will need to be notified to come and certify the cause of death. If out of hours, call 111. A Medical Certificate of Cause of Death will be issued. This will be needed to allow the undertakers to remove the body. Contact a funeral director to collect the body. You do not need to use the firm that collects the body to arrange the funeral. You are allowed to choose another funeral director to arrange the funeral.

Death at Hospital/Hospice

Where the death was unexpected and the deceased taken to hospital in an ambulance, the paramedics may have taken the house keys and handed these to the hospital administrator, these, along with any personal effects will need to be collected. The hospital will issue a Medical Certificate of Cause of Death.

Death at a Nursing Home

Where the death occurred in a hospice or nursing home the staff will arrange for a Medical Certificate of Cause of Death to be issued and advise of their procedures surrounding the removal of personal effects.

Other matters

Family members will need to be informed of the death. They will also be able to assist with information for example did the deceased make a will and its location, burglar alarm code, provide keys to the property.

Minors

Each situation is unique. If the deceased left a will the instructions should be followed.

Pets

Pets of the deceased will need to be taken care of, neighbours or family are often willing to assist. If there is no one, a local vet should be contacted who will be able to help.

Property if left unoccupied

Make sure the home of the deceased is locked and all valuables are secure. Notify the insurers.

[Click here to go back to the FAQ contents.](#)

2. What happens when a death is reported to a coroner?

If a death is reported to a coroner, the documents you need to register the death may be different. The coroner will decide either:

- The cause of death is clear.
- A post-mortem is needed.
- To hold an inquest.

When the cause of death is clear

- The doctor signs a medical certificate.
- The medical certificate can be given to the registrar to register the death.
- The coroner issues a certificate to the registrar stating a post-mortem is not needed.

When a post-mortem is needed

The coroner may decide a post-mortem is needed to find out how the person died. This can be done either in a hospital or mortuary.

No one can object to a coroner's post-mortem but the coroner can be asked, and must inform the person and the deceased's GP, when and where the examination will take place.

After the post-mortem

The coroner will release the body for a funeral once they have completed the post-mortem examinations and no further examinations are needed.

If the body is released with no inquest, the coroner will send a form ('Pink Form - form 100B') to the registrar stating the cause of death.

The coroner will also send a 'Certificate of Coroner - form Cremation 6' if the body is to be cremated.

When a coroner holds an inquest

A coroner must hold an inquest if:

- The cause of death is still unknown.
- The person might have died a violent or unnatural death.
- The person might have died in prison or police custody.

An interim death certificate will need to be obtained during the inquest in order to notify the registrar of the death. When the inquest is over, the final death certificate will be available from the registrar.

Interim death certificate during the inquest

- The coroner can issue an interim death certificate as proof of death.
- The interim death certificate is used to notify a registrar of the death while the inquest is still taking place.

To get a death certificate

- After the inquest, the coroner will confirm the cause of death to the registrar.
- The registrar will register the death.
- You can ask the registrar for a death certificate.

[Click here to go back to the FAQ contents.](#)

3. What happens when a death occurs outside the UK?

It is necessary to register a death with the local authorities in the country where the person died.

It is also possible to register the death with the UK authorities in many countries.

The following rules apply if you live in England and Wales.

Reporting the death

It is possible to use the HM Revenue & Customs The Tell Us Once service to report a death to most of the government organisations at the same time.

This service is available if the person who died:

- Normally lived in England, Scotland or Wales.
- Was abroad temporarily (for example, on holiday or a business trip).

Contact a register office to use Tell Us Once service.

They will either:

- Complete the Tell Us Once service.
- Provide a unique reference number to allow the use of the service online or by phone.

If it is not possible to use the Tell Us Once service, it will be necessary to inform the various organisations about the death directly.

Bringing the body home

To bring a body home it is necessary to:

- Get a certified English translation of the death certificate
- Get permission to remove the body, issued by a coroner (or equivalent) in the country where the person died
- Tell a coroner in England if the death was violent or unnatural

It is helpful to read information about the country where the person died to find out about any other requirements.

Contact a register office

Once the body is home, the death certificate must be taken to the register office in the area where the funeral is taking place.

As the death has already been registered abroad, the registrar will give you a 'certificate of no liability to register'. This document should be given to the funeral director so the funeral can go ahead.

If the funeral is not being arranged by a funeral director, give the certificate back to the registrar within 96 hours of the funeral.

When a coroner will be involved

A coroner will usually hold an inquest in England or Wales if the cause of death is unknown or if it was sudden, violent or unnatural.

A certificate from the coroner (form 'Cremation 6') will be required if the person is to be cremated.

Bringing ashes home

When leaving a country with human ashes you will normally need to show:

- The death certificate
- The certificate of cremation

Each country has its own rules about departing with human ashes and there may be additional requirements. Read information about the country where the person died to find out what you need to do. A standard customs form will need to be completed on arrival in England, Wales or Scotland.

Contact the airline to find out whether the ashes can be carried in hand luggage or not. They may need the ashes to be in a non-metallic container so they can be x-rayed.

The body should not be cremated abroad if a coroner at home will need to conduct an inquest into their death.

Register the death to get:

- A 'certificate for a burial' required by the funeral director
or
- An application for cremation required by the crematorium
- Stop or change benefits payments
 - Tell the Department for Work and Pensions (DWP) about the death straight away
 - the HM Revenue and Customs 'Tell Us Once' service informs all the relevant government departments when someone dies at the same time
- Check eligibility for financial support
 - guardian's allowance, bereavement and other benefits

- Check if changes are required to surviving spouse/civil partners
 - benefits, pensions and taxes
 - right to live in the UK
- Find out if there is a will
- Find out if there are funeral instructions
- Arrange the funeral
- Notifications
 - Inform the deceased's banks, utility companies, landlords or housing associations, etc. of the death
- Check if Inheritance Tax is payable/reportable
- Apply for [probate](#)
- Deal with the estate
 - Collect the estate assets
 - Pay any debts or taxes owed by the deceased
 - Distribute the estate as set out in the will or the law

[Click here to go back to the FAQ contents.](#)

4. Who is responsible for dealing with the estate of a deceased person?

If the person who died left a valid will, it should name at least one executor, and it is their responsibility to apply for the Grant of Probate.

If someone dies intestate (there is no will), the law (intestacy rules) determines who is entitled to inherit from the estate and who may apply for the Grant of Representation (Letters of Administration).

Intestacy rules

If someone dies without a valid Will the law, referred to as the intestacy rules in England and Wales, determines who is entitled to inherit from the estate and who may apply for the Grant of Representation (Letters of Administration).

Partial intestacy can occur where a valid Will does not deal with all of the estate.

The rules set out who should deal with the estate and who shall inherit in cases of intestacy.

Whilst the law ensures that the next of kin share the estate the proportions are arbitrary and only recognise married/registered partners and natural/adopted children. Therefore, a surviving partner or stepchildren will not automatically inherit any of the property or possessions under the rules of intestacy. However, the next of kin can vary the distribution on intestacy to provide for a surviving partner/stepchildren or it may be possible for the surviving partner/stepchildren to make a valid claim on the inheritance.

The hierarchy is dependent on the makeup of the family, which is set out in a tabular format on the following page.

Family at date of death	Entitlement
Spouse or registered civil partner only	Everything provided they survive 28 days after the deceased.
<p>Spouse or registered civil partner and issue (children) <i>Issue includes both adopted and illegitimate</i></p> <p><i>If their children died before them and have issue their children take their place (Stepchildren get nothing unless named in a valid will)</i></p>	<p>Spouse/civil partner takes;</p> <ul style="list-style-type: none"> • All personal chattels (possessions) • A statutory legacy (tax free) Currently £270,000 (plus interest from the date of death) • Half of the remainder absolutely • Can ask to appropriate deceased's interest in matrimonial home and renounce the statutory legacy £270,000 <p>Children share between them on the statutory trusts;</p> <ul style="list-style-type: none"> • One half of the remainder, if over 18 absolutely, if under 18 it is held on trust on their behalf until they reach 18 or marry under that age
<p>Surviving spouse or civil partner and near relatives. <i>Near relatives are parents, siblings of whole blood and nieces and nephews of whole blood. Remoter relatives such as grandparents, aunts and uncles have no right to share in the estate.</i></p>	Spouse/civil partner takes all.
If there are surviving issue (children) but no spouse or civil partner	The children share everything equally. If a child has died and left their own issue, their children take their place. If under 18 it is held on statutory trust until they reach 18 or marry under that age
<p>If no surviving spouse, civil partner or issue (children)</p> <p><i>Where there are no known relatives and the estate passes to the Crown this is known as 'bona vacantia'. Deserving claimants may apply to the Crown/Duchies of Cornwall or Lancaster.</i></p>	<p>The hierarchy for payment is;</p> <ol style="list-style-type: none"> 1. Parents 2. Siblings of the whole blood or if they have died their children 3. Siblings of the half blood, or if they have died their children 4. Grandparents 5. Uncle and aunts of whole blood or their descendants 6. Uncle and aunts of half blood or their descendants 7. The Crown

5. What are the responsibilities of a Personal Representative?

PRs (an executor or administrator) are legally responsible for the money, property and possessions of the person who died (the 'estate's assets').

The key duties of a Personal Representative (PR)

- Determine the assets and liabilities of the estate.
- Protect those assets.
- Serve the Notice of Administration on all of the beneficiaries, surviving spouse, and potentially other interested persons.
- Obtain the grant of representation, where needed.
- Collect in all the assts, including taking action to recover debts due, within reasonable timescales and administer the estate in accordance with the law.
- To settle any tax liabilities and deliver tax returns, including an Inheritance Tax Account, as required.
- Distributing the estate in accordance with the will or the [intestacy rules](#).
- Manage the estate correctly.

PRs responsible for the assets from the date of death until the date everything has been passed on to the beneficiaries, which is referred to as the 'administration period'.

If there are more than one PR, all the PRs should agree with each other:

- Where to hold financial assets - you can set up a bank account known as an 'executorship account' if needed.
- The rules on making withdrawals or payments from any accounts connected to the estate.
- What assets you need to sell and when.
- Personal Representatives are required to keep very good records and provide an accounting to the probate court for all expenditures if called on to do so. It requires a need to keep meticulous records of financial transactions, as well as communications with attorneys, accountants, bankers, and other contacts.

PRs may have to apply for probate before they can deal with some assets.

During the administration period PRs may have to:

- Pay any debts left by the person who died.
- Sell assets such as properties or shares.
- Report the estate value, income and tax liability to HM Revenue and Customs.
- Pay tax on any income or gains the estate generates.

The appointment as personal representative is for life and is not discharged once the estate is finalised. If income becomes due to the estate in future or if claims are made against it, it is up to the personal representatives to deal with them.

[Click here to go back to the FAQ contents.](#)

6. Do I have to act as the Executor/Personal Representative?

If an Executor has been named in a will they do not have to act if they do not want to.

It is possible for someone to renounce their role as executor. This would mean permanently giving up any role in the administration of the estate. However, in order to renounce you must not have done any work regarding the administration of the estate.

However, if someone has started the job and then decided they did not want to do it anymore it is seen to be 'intermeddling'. This means that if an executor has done anything, such as contact the deceased's bank, mortgage provider applied for probate, it is necessary for them to carry on as executor. Therefore, it is important that a decision is made, what to do and not to do, as early as possible.

Assuming an executor has not intermeddled and wants to renounce their role, they will need to sign a Deed of Renunciation Form.

If the executor does not want to renounce, it is possible to 'reserve power' instead. The executor would have no responsibility if they do not take out the grant initially but allows them the option to take a grant out at a future date if they wish.

When someone dies without a will they are said to have died 'intestate' and no one has immediate authority to act as their Personal Representative. Administrators are determined by law (intestacy rules). Those entitled to be an administrator do not have to act if they do not want to.

Unlike an executor an administrator cannot reserve power. However, all those entitled to be administrator in the same capacity have an equal right. Therefore, an administrator could allow others within the same category as them to take out the grant initially and then apply at a later stage.

[Click here to see what the responsibilities of a Personal Representative are.](#)

[Click here to go back to the FAQ contents.](#)

7. How much can the Personal Representative(s) do: how much does the Personal Representative need to do?

How much can the Personal Representative(s) (PRs) do?

PRs can apply for probate and administer the estate themselves. This can be cheaper than paying a solicitor, banker or probate practitioner to do so especially for smaller non-complex estates.

How much do the PRs need to do?

There is no need for the PRs to do all the work themselves and there are different ways to reduce the workload.

PRs should consider this especially if the estate has a lot of assets or includes things like trusts.

Professionals to administer the estate

It is possible for PRs to appoint professionals to act on behalf. Banks, solicitors and probate practitioners can assist. The main difference between them is the way in which they charge fees. Often banks and solicitors offering probate services will charge between 2% and 5% of the value of the estate.

Agents

If PRs are administering the estate themselves, it is still possible to make use of agents. Agents can be employed to perform specific tasks, such as estate agents and stockbrokers.

Power of Attorney

PRs can also use an ordinary Power of Attorney to delegate another person to act on their behalf. It is often used where a temporary issue means the PR is not available to deal with a specific element of administration. The maximum period powers can be granted in this way is 12 months.

PRs can get professional and legal advice and help, such as from a solicitor or probate practitioner, to deal with any estate.

[Click here to go back to the FAQ contents.](#)

8. What is probate?

Probate is the word normally used to describe the financial and legal process of dealing with the assets (such as property, investments, cash or other possessions) of an estate for someone who has died.

Probate is the process of proving a will is valid, if there is one, and confirming who has the authority to administer the deceased's estate.

Before the next of kin or the Executor(s) can claim, transfer, sell or distribute any of the assets belonging to person who died it may be necessary for them to apply for a [Grant of Representation](#) (either a Grant of Probate or Letters of Administration).

[Click here to go back to the FAQ contents.](#)

9. Who pays for probate?

The probate fees are paid for by the estate not by the Personal Representative.

[Click here to see how much it costs to obtain probate.](#)

[Click here to go back to the FAQ contents.](#)

10. Who can apply for Probate?

When a person dies the person(s) who administer the estate are known as Personal Representatives (PRs). There are two types of PR:

- Executor - who is appointed in the will, and
- Administrator - where there is no will or no executor is named in the will or there is an executor named in a will but they are unable or not willing to act.

The chain of representation

The person who can apply for a grant as an administrator is determined by law.

Where there is a will but no Executor named or no executors willing or able to act as Executor.

The hierarchy is as follows:

- The executor.
- Any residuary legatee or devisee holding in trust for another.
- Any residuary legatee or devisee including one for life or if there is an undisposed property those entitled under the [intestacy rules](#).
- Any personal representative of any residuary legatee or devisee absolutely entitled or entitled under the rules of intestacy.
- Any other legatee or devisee or any creditor of the deceased.
- The personal representatives of those mentioned in the previous point.

Where there is no will, the hierarchy is determined by the rules of intestacy in the following order of priority provided they have beneficial interest.

- Surviving spouse/civil partner.
- Children (or the issue of a child pre-deceased).
- Father or mother of the deceased.
- Whole blood siblings (or the issue of a sibling who pre-deceased).
- Half-blood siblings (or the issue of a half-blood sibling who pre-deceased).
- Grandparents.
- Whole-blood aunts and uncles (or their issue if pre-deceased).
- Half-blood aunts and uncles (or their issue if pre-deceased).

If there is no one in these criteria, then the Treasury solicitor is entitled to a grant if they claim bona vacantia on behalf of the Crown. If none of the above apply a creditor of the deceased may apply.

[Click here to go back to the FAQ contents.](#)

11. How do you obtain probate?

The process of obtaining a [Grant of Representation](#) (either a Grant of Probate or Letters of Administration) can be time consuming and complex. It involves:

Identifying all of the deceased's assets (such as property, investments, cash and other personal possessions) and liabilities (debts such as utility bills, outstanding amounts on credit card and loans, etc.) to determine the value of the estate.

Determining who is entitled to inherit the assets. This may be determined by a will or the [rules of intestacy](#) if the person who died did not leave a will.

If there is a will, it is necessary to determine if it is valid.

Determining whether any Inheritance Tax (IHT) is due to HM Revenue and Customs (HMRC). If so, calculate the amount and complete and submit the Inheritance Tax Forms within a year of the death (sometimes, even when there is no IHT due), as well as pay any IHT due within six months of the end of the month in which the death occurred which needs to be paid to the Probate Office before they issue the Grant of Representation. Inheritance Tax Forms will still have to be submitted to HMRC within a year of the death.

Preparing and submitting the Probate Application requesting the Probate Office to issue the Grant of Representation (either a Grant of Probate or Letters of Administration).

When the Probate Office have issued the Grant of Representation (either a Grant of Probate or Letters of Administration) the executor(s)/next of kin will be able to collect or dispose of the deceased's assets, pay all of the liabilities and estate administration expenses.

Prepare and submit tax returns to HM Revenue and Customs for any further taxes due by the estate during the administration period (Income Tax, Capital Gains Tax, etc.) as well as administrative costs incurred while dealing with the estate.

Distributing the assets in accordance with the will or rules of intestacy.

[Click here to go back to the FAQ contents.](#)

12. How much does it cost to obtain probate?

If the Personal Representative makes the application for probate ([either the Grant of Probate or Letters of Administration](#)), the Probate Office charge a fee of £273 if the value of the estate is over £5,000. The Probate Office do not charge a fee to make the application if the value of the estates is £5,000 or less.

Extra copies of the Grant of Probate or Letters of Administration can be requested at the same time as making the application for £1.50 each. Additional copies are useful as it means you can send them to different organisations at the same time. The Probate Office charge significantly less for each extra copy of the Grant of Probate or Letters of Administration if ordered at the same time as making the application than they charge if ordered later.

If probate has already been granted, it costs £20 to make a second application. It is necessary to pay this fee even if the value of the estate is £5,000 or less.

These costs are only for the probate application itself.

If you look at the [steps involved in the process](#) you will appreciate that there is a lot of work involved and banks, probate solicitors' and probate practitioners' fees will vary if they assist the Personal Representatives (PRs) with these services. Often banks and solicitors charge is based on a percentage of the value of the estate which vary (usually somewhere in between 2% and 5%).

Generally accounting firms, who are probate practitioners, charge on a time spent basis rather than on a percentage of the value of the estate. This is generally a cheaper option.

Our fees are charge on a time spent basis rather than on a percentage of the value of the estate. Our charge out rates per hour depend on the member of staff providing the services.

We understand that some PRs prefer to know what fees are involved at the outset. Clearly [the steps](#) will take a different length of time in each case. As our fees are not based on a percentage of the value of the estate, once a PR has considered and decided on which steps assistance is required and has provided the information about the estate we can estimate fixed fees, and provide a breakdown, based on the particular circumstances of that case. However, fixed fees could end up being more than if fees are chargeable on a time spent basis, because an element of a fixed fee is a reserve for contingencies.

Also, we need to reserve the right to revise the fixed estimates where the original information is inaccurate, the circumstances change or complications arise during the process that significantly increase the amount of the work required. If any issues are identified, that are likely to significantly affect the fees, we notify the PRs at the earliest opportunity and a revised fixed estimate will be provided before undertaking additional work. So, if a PR wants certainty, it may be worth considering having a fixed fee estimate with the possibility of paying a premium.

Additional costs of probate (where applicable) include:

- Copies of death certificates
- Land registry searches - £3 +VAT
- Advertisements in the local newspaper and state Gazette (£150 - £300 depending on the paper)
- Asset or beneficiary tracing searches
- Costs for replacing lost title documentation (such as lost share certificate)
- Bankruptcy searches
- Costs of transferring legal title of property to legatees/beneficiaries

[Click here to go back to the FAQ contents.](#)

13. How long does it take to obtain probate?

It is difficult to provide a general timeframe for probate services as there are many things that can affect the process. What we seek to do is work with the personal representatives and keep them informed of progress on a regular basis so that they know where we are in the process.

On average it takes about 3 to 6 months to get the necessary paperwork for the Probate Register but it can take longer, more than a year in some cases, if the estate is complicated. We have outlined various stages of the process and an estimate of the time, in our experience, it takes to complete them:

Step one

Once appointed work begins to determine the value of the estate:

- Gather information from the Personal Representatives (PRs) – (1-2 months)
- Ascertain liabilities - (1-2 months)
- Obtain valuations – (1-2 months) – dependent on the assets and financial institutions involved

Step two

When all the relevant information is available:

- Prepare IHT Account – (2– 3 weeks after all the information is available)
- Prepare tax returns to the date of death – (3-4 weeks after receipt of all the information)
- Prepare the probate application – (2 – 3 weeks)

Unless the estate is complex, typically, step 1 and 2 takes between 2-3 months to complete

Step three

Once the executors have approved the IHT Account and probate papers:

- Inheritance Tax Probate Summary is submitted to HM Revenue & Customs – together with the IHT Account (within 1 week of receipt of the approved papers from the Personal Representatives)

Step four

- Probate Application submitted - after HM Revenue & Customs issue the clearance certificate or (currently) 20 working days after HM Revenue & Customs receive the IHT Account (if earlier)
Note: The Probate Registry advise not to send the application earlier as it may cause delays.

Step five

- Obtaining the Grant of Representation (GOR) to be issued (4-8 weeks)

Step six

When GOR received

- Collect assets (3 months – 1 year)
- Settle liabilities (3-4 weeks after receipt of all the information)
- Prepare accounts (3 weeks – 1 month from when appropriate information is available)
- Register Estate on Trust Register (if appropriate) – (1-2 weeks)
- Prepare estate tax return(s), if required - (3-4 weeks after receipt of all the information)
- Assent/Transfer of assets to beneficiaries – (2-3 months to years)

Typically, this step takes between 3 months to 1 year to complete when dealing with non-complex estates.

[Click here to go back to the FAQ contents.](#)

14. What is a Grant of Representation?

A Grant of Representation is a legal document is sometimes required to access bank accounts, to settle debts or to transfer assets after someone had died.

Grant of Probate - the document given if the person who died left a will.

A will - determines how the assets of that person's estate are to be distributed.

Letters of Administration - the document given if the person dies intestate (without leaving a will).

Intestacy rules (Law) – determines how the assets of someone's estate are to be distributed if they died without a Will.

The next of kin or the Executor(s) can only start dealing with the deceased's estate when probate has been granted (that is the Grant of Representation document has been issued).

[Click here to go back to the FAQ contents.](#)

15. When is a Grant of Representation needed?

A grant is generally needed for all estates but there are exceptions.

A grant is not normally needed if:

- The estate does not include land, property or shares
- All assets are held jointly with another and all assets pass to the surviving person automatically.
- Any bank or building society accounts which contains less than £5,000 (although you will need to check with the bank/building society as some may insist on receiving a grant before allowing the personal representative access to the deceased's account).

A grant is only needed to deal with property that passes to the personal representative(s)/Executor(s) for which they need they will need legal proof of title. Therefore, a grant is not needed for assets not requiring proof of legal title this includes chattels (such as cars, phones, antiques and other possessions provided they are not held purely for investment purposes).

Personal representatives do not deal with certain types of property when the owner dies:

- Property subject to a statutory nomination such as life insurance policy where a nomination form has been completed.
- Jointly owned real estate property held as 'joint tenants'.
- Property with a lifetime gift conditional upon death ('donation mortis causa' sometimes known as death bed gifts) provided it was;
 - made in contemplation of death,
 - conditional on death,
 - the donor parted with the property before dying and
 - it was capable of being donated in this way.
- Certain payments from pension funds if nominations were made before death such as death in service payments.

It is important to note that whilst this property may not require a Grant of Representation to enable it to be transferred it does form part of the deceased's estate.

[Click here to go back to the FAQ contents.](#)

16. What is the Administration Period?

The administration period is the period from the date of death until all of the assets have been gathered in, the liabilities paid, and the remaining assets have assigned to the beneficiaries.

[Click here to go back to the FAQ contents.](#)

Get in touch

For specialist probate and estate administration advice tailored to your unique circumstances, please get in touch:

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[Click here to go back to the FAQ contents.](#)

[Back to probate and estate administration](#) 