

I'm not sure if they had a will: what do I do?

Check to see if you can find a certificate of deposit, which will have been sent to them if they arranged for the will to be kept by the Principal Registry of the Family Division. Even if you can't find a certificate of deposit, you can still check with the Registry to see if they hold the will.

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

If you can't find a will, you will usually have to deal with the estate of the person who has died as if they died without leaving a will.

Remember - If a person who made a will commits suicide, the will is still valid.

Okay, I've found the will. What do I do now?

Everything owned by a person who has died is known as their estate. The estate can be made up of things like their home and possessions as well as their savings. However, it *also* includes any money they owed when they died

An executor is someone who is named in the will as responsible for dealing with the estate. If you are an executor, you may have to apply for a special legal authority before they can deal with the estate. This is called **probate**.

An administrator is someone who is responsible for dealing with an estate under special circumstances. This is normally if there is no will, but can also include situations where an executor refuses to be involved in any way. An administrator has to apply for letters of administration before they can deal with an estate, but your adviser has separate information on that to help you.

I'm an executor and don't want to be

That's fine: you can appoint someone else to be the executor on your behalf. To do this, fill in their details on form PA1. The other person will then be sent a form to sign.

However, you may not want to appoint someone else to act for you. You can still refuse to act, as long as the person who made the will has died and you have not already started to deal with the estate. This is called **renouncing**.

To renounce you need to fill in a form called a **form of renunciation**. You can buy this form from a specialist legal stationers, which can be found [online](http://www.oyezteam.co.uk/) (<http://www.oyezteam.co.uk/> is one option). You then file the form at a probate registry, together with the will.

This means that someone else can then apply for letters of administration and take over duties as an executor.

I'm an executor. What do I need to do?

You now have the responsibility for dealing with the estate of the deceased. Don't worry, this sounds scarier than it is. We recommend you take the following steps one by one:

- o First, finding the financial documents that you can.
- o You will need to send a copy of the death certificate to any banks (etc) that are holding the money of the deceased. With this, send a letter asking for written confirmation of the value of the money held at the date of death. You'll also need to ask for written confirmation of the amount of income received during the last tax year up to the date of death. Finally, you need to ask them to freeze the bank accounts so no one can take money out without the correct legal authority.

With that done, you now need to:

- o open a bank account on behalf of the 'estate'.
- o find out if anyone owed any money to the deceased
- o finding out if the deceased had any debts

Once you've done this:

- o Put together a detailed list of all the money and assets in the estate, as well as the debts
- o You will need to work out the amount of inheritance tax due. Don't worry, this will come out of the estate

Now you need to get probate

- o This means sending off the documents required by the probate registry and HM Revenue and Customs. Details are [here](https://www.gov.uk/wills-probate-inheritance/applying-for-a-grant-of-representation) at <https://www.gov.uk/wills-probate-inheritance/applying-for-a-grant-of-representation> (point 4)
- o Once you have probate, you can collect in the money from the various accounts and savings of the estate.
- o You now need to pay expenses and fees, such as inheritance tax and probate fees

The last thing to do is now to share out the estate as set out in the will.

If it looks like there is not enough in the estate to cover all the expenses, fees and debts, you should seek the advice of a solicitor.

Remember – If you need a probate, it is illegal you to start sharing out the estate until you have officially got **probate**.

It sounds like a lot. Do I need a solicitor?

Actually, many executors and administrators act without a solicitor. Although sorting out an estate can look complicated, it often isn't. Using a solicitor can cost thousands of pounds, even if the estate is small or simple: for a few hundred pounds, you can actually sort out a simple estate yourself. However, if the estate is complicated, it is best to get legal advice.

Remember - The legal fees can be paid for from the estate.

Okay, then what is probate?

Probate is a technical legal term, but is actually pretty simple. It is a legal document which gives you the authority to share out the estate of the person who has died according to the instructions in the will. You do not always need probate to be able to deal with the estate.

Remember – Just because you've been named in a will as an executor, you don't have to actually be one.

Do you always need probate?

You usually need probate to deal with an estate if it includes property such as a flat or a house. However, you may not need probate if:

- o the estate is just made up of cash (that is, bank notes and coins) and personal possessions such as a car, furniture, and jewellery
- o all the property in the estate is owned as beneficial joint tenants (in this case, the property automatically becomes wholly owned by the other owner)
- o you had a joint bank account
- o the amount of money is small
- o It is clear that the estate does not have enough money to pay all the debts, taxes and expenses

What do I do about tax and benefits?

You need to tell the tax office, and each government office that was paying benefits to the deceased about their death. You need to do this as soon as possible after the death.

Depending where the person who has died was living, you may be able to tell several government services about the death in one contact by using the Tell Us Once Service.

If you need to report the death to the Department for Work and Pensions (DWP), you can telephone the DWP Bereavement Service. They can deal with all the DWP benefits that were being paid to the person who died. They can also check whether the next of kin is entitled to any benefits.

What about debts?

The person who has died may have left debts that haven't been paid off. This could be something like a credit card or overdraft, or a personal loan. The first thing to do is to tell the creditors (the person they owe the money to) that they've died. Each organisation will have a slightly different procedure to follow, so get ready to send out copies of the death certificate to different addresses.

Remember – As long as there is not enough money in the estate to pay off the debts - their creditors cannot chase anyone else for that debt. That includes the surviving relatives.

Remember - You should check whether there was any kind of insurance policy that would pay off any of their debts on their death. These are often called things like Payment Protection insurances, and only pay out in specific circumstances.

What about joint debts?

If the debt is a joint one – that could be a joint loan, a joint credit card, or even an overdraft on a joint account – then the creditor can still chase the surviving person.

Remember - if you lived with someone who has died, you can still be liable for debts relating to the property, such as council tax or utility bills.

What about our mortgage?

If you are going to inherit the property and there is still a mortgage on it, the mortgage company will either ask you to pay up the mortgage in full, or ask you to take over the mortgage.

Remember - There might be a life insurance or mortgage protection policy which will pay off the mortgage in case one of you dies.

What about our joint bank account?

All the money will go to the surviving partner without the need for probate or letters of administration.