

Opinion **Your Questions**

How can I sort out my late husband's estate?

He died without making a will so I have to arrange the division of his assets

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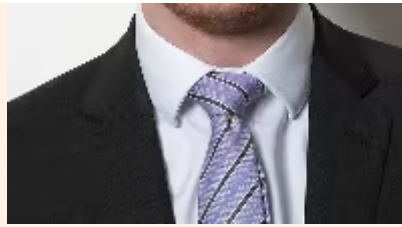
When someone dies without a will they are subject to intestacy rules © Thomas M Barwick/Getty Images

Lucy Warwick-Ching 4 HOURS AGO

It came as devastating news when my husband, a relatively healthy man, passed away a few months ago from a brain haemorrhage. He was only 31 years old, so we hadn't thought it necessary to put our wills in place. Myself and his family are now in the difficult position of arranging inheritance of his estate. How should I proceed?

Aidan Grant, a senior associate at law firm Collyer Bristow, says that if someone dies without a will, the succession of their “free” estate — disregarding, for example, property held as joint tenants — is determined instead by the rules on [intestacy](#).





Aidan Grant, a senior associate at law firm Collyer Bristow

The order of priority for who is entitled to receive the estate and who will act as the “administrator” is the same. Assuming you have no children, as the surviving spouse you are entitled to your husband’s entire free estate and will be his sole administrator. You will need to apply for a Grant of Letters of Administration in due course.

If you do have children, you will broadly inherit the first £270,000 and any personal items, known as “chattels”, and you and your children will then each receive one-half of the balance of the estate, if any. You are entitled to ask the administrators to appropriate the matrimonial home to your share. If property is held for a minor or for any life interests, the court is likely to require a second administrator.

As sole administrator, you have unilateral control over the administration of your husband’s estate. By comparison, if, for example, you were a cohabiting, unmarried partner, you would have no legal standing under the intestacy rules as to either an entitlement to the estate or to act as an administrator.

Broadly, an administrator has no authority to distribute the estate until the grant has been obtained. Before applying to the court, HM Revenue & Customs will expect you to submit an inheritance tax return for the estate and pay any tax due at that point. Only then will HMRC inform the courts that they may release the grant so you can “distribute” the estate.

However, because the entire estate is being inherited by a surviving spouse, in most circumstances the estate should benefit from a complete spouse exemption for inheritance tax purposes.

Care should be taken when choosing whom to appoint as executors as the role can be onerous and time consuming. Consider how you wish to divide your estate and whom you would like to benefit from [your will](#). In particular, you may wish for certain items of emotional value to be bequeathed to certain friends or family members. Taking legal advice is particularly important if the value of your estate, noting your inheritance from your husband, is large enough to create an inheritance tax liability.

What are the pros and cons of buying NFIs?

I'm thinking of dipping my toe into the art market for non-fungible tokens (NFTs) now that prices have [dipped](#). What do I need to think about and how do I protect myself from buying a fake piece or any other type of fraud?

Ellie Fayle, a lawyer specialising in art and cultural property matters at Kingsley Napley, says there is no risk-free way of investing in NFTs.

One way in which buyers can be at risk is simply due to the misconception that [an NFT](#) is the artwork, and that the blockchain (a shared ledger that records transactions and assets) makes it secure.

An NFT is more akin to a receipt, demonstrating that someone is the “true” owner of a digital artwork, which is itself stored on a third-party server elsewhere. Therefore, if the server goes offline for any reason (something that happens even now), all that would be left is an NFT with a broken link.

Another issue is whether the person creating or selling the NFT has the right to do so. There have been many instances where NFTs have been withdrawn because the copyright owner had not consented to the reproduction of the underlying work. A high-profile example involved [Stormtrooper](#) helmets designed by artists like Damien Hirst, where the artists intervened to have the NFTs removed.

Scams on NFT platforms share characteristics with scams in the offline world, so many of the red flags are similar. One of the most prevalent types of NFT scam is a “rug pull”, where investors are lured in to a much-hyped sale before the seller abruptly shuts down the project, making off with the proceeds — a not uncommon tactic for regular fraudsters too. The vital thing is to properly investigate what you're actually buying.

Platforms such as Discord and Twitter are valuable resources to help you. Warning signs include high numbers of followers on Twitter, but little actual substantive engagement (retweets, likes and comments), which suggests the use of fake followers to simulate interest. Similarly, no discussion on Discord about a project, or discussion dominated by a small number of users, should trigger concerns.

If you aren't confident in your ability to interpret the smart contract governing the [NFT's functionality](#), consult technical and legal experts. You can also ask the seller or creator (they are often active on Discord) to explain it. If they refuse, walk away. Research the artist and seller as much as possible to establish whether they are trusted members of the community, or new entrants without any prior history in

You should also check whether terms and conditions are imposed by the marketplace or by the creator separately that might limit your ability to deal with the NFT, such as the right to display the artwork or sell it on without restriction.

The best way to protect yourself when buying an NFT is to find out as much information as possible. The more you have, the better placed you will be to make an informed decision. And if it looks too good to be true, it almost certainly is.

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Our next question

My mother is 82 and her health is failing. I think she will end up in a residential care home. She is concerned that all of her money will be spent on care. Her home is worth £400,000; she has £50,000 in a savings account. She has discussed transferring her house to my siblings and me. Can she do this, and will it prevent her home being sold to pay for care costs?

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