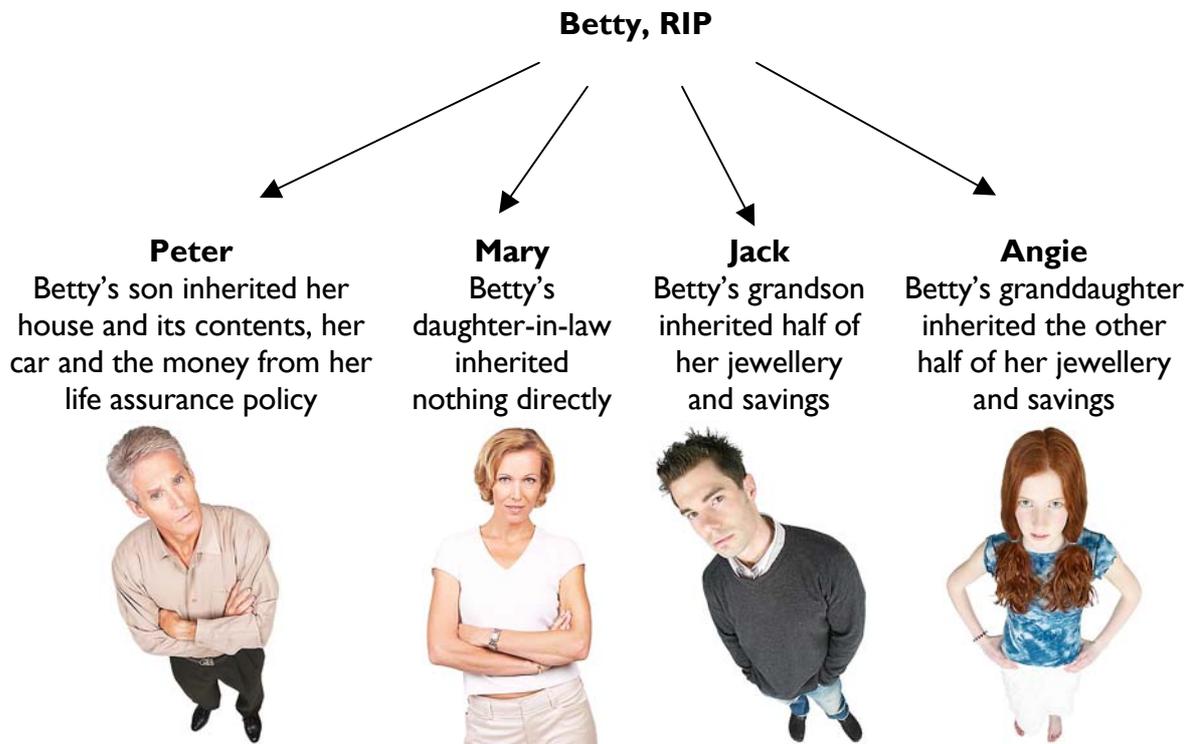


Topic 1(k) Inheritance

Inheriting money and possessions

When people die, their money and possessions are given to other people. The people who receive money or goods are said to **inherit** them. For example, when Betty died her family inherited the things she owned.



There are several specialist words used when talking about inheritance. What do you think the following words mean?

Will

Estate

Inheritance tax

Deceased

Executor

Beneficiary

What happens when someone dies



<p>1. Doctor issues medical certificate giving cause of death.</p>	<p>Let's take the example of Betty again. When Betty died, her doctor issued a medical certificate giving the cause of death. Betty died of a heart attack when she was 89 years old.</p>
<p>2. Family take medical certificate to the Registrar of Births and Deaths and answer questions to identify the person who has died.</p>	<p>Betty's son Peter and his wife Mary took the medical certificate to the local Registrar of Births and Deaths so that the registrar could update official records. The Registrar asked Peter and Mary questions about Betty such as her address, when and where she was born, and the names of her parents, to make sure she could identify the correct Mrs Betty Jones in the records.</p>
<p>3. Registrar of Births and Deaths issues a death certificate.</p> 	<p>The Registrar then gave Peter and Mary a death certificate for Betty. A death certificate is a very important piece of paper because it is a legal notice that a specific individual has died. Banks and other organisations need to see the death certificate before they can give a deceased's money to a solicitor or executor.</p>



If someone leaves a Will

A Will is a document written and signed by an individual that gives instructions about what should happen to all the things he or she owns after they have died.

In her Last Will and Testament, Betty named her son Peter and his wife Mary as her executors. **Executors** are the people who carry out the Will instructions. They are given the job of collecting all the possessions and money owned by the person who has died. These possessions are known as the deceased's **estate**. Executors must pay any inheritance tax that is owed (more on this later) and then follow the deceased's instructions about giving their estate away.



Why do people often name two or more people to be executors of their Will?

People use these phrases when talking about the executor's role:

Executors distribute the assets

Executors have a legal duty to follow the instructions in the Will



A female executor, like Mary, is called an **executrix**.

If someone does not leave a Will

If someone does not leave a Will they are said to have died **intestate**.



What do you think happens to their possessions when people die intestate?

Rules of intestacy in England and Wales

There are legal rules to decide who inherits what when people die without making a Will.

If they are married or have a **registered civil partner** and their estate is worth £125,000 or less.

Everything goes to the surviving **spouse** (husband or wife), or registered civil partner.



If they are married/have a civil partner and their estate is worth more than £125,000.



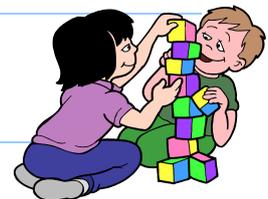
If the deceased had no other relatives, their spouse/civil partner gets everything.

If they did have other relatives, their spouse/civil partner shares the estate with these people in the following order:

- with the deceased's children and grandchildren;
- or, if they did not have children, with their parents;
- or, if they had no children and their parents have already died, with their brothers and sisters.

If they are not married/civil partners but they do have children.

Their children inherit everything.



If they are not married/civil partners and they do not have children.

Their relatives will receive equal shares of their estate in the following order:

- their parents; or, if both parents are already dead
- their brothers and sisters; or
- if there are no parents, brothers or sisters, their grandparents; or

- if there are no parents, brothers, sisters or grandparents, their uncles and aunts.

If there are no relatives, their estate goes to the **Crown**.



Benito and Sylvia have been living together in Manchester for 10 years. They are not legally married and neither has any relatives. They haven't bothered to make Wills because they assume that they will inherit from each other automatically. Are they right?



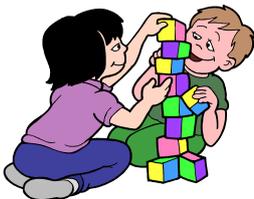
Ric and Annalise come from large families. Both sets of parents are still alive and they have lots of brothers and sisters. Ric and Annalise are legally married and have two children. They have not bothered to make Wills because they don't want to think about dying. They are joint owners of their home in Cheshire that is now worth £280,000. If Annalise died tomorrow, who would inherit her estate?

The rules of intestacy are different in Scotland and Northern Ireland.

Rules of intestacy in Scotland

What happens when people die without a Will in Scotland is:

If they are married /registered civil partners and have children or grandchildren.



The surviving spouse/registered civil partner gets:

- the deceased's house or flat if the surviving spouse /civil partner was living there when the person died;
- and up to £22,000 worth of furniture and furnishings in the house;
- and the first £35,000 of the estate;
- and one third of all money, shares, cars, furniture and jewellery (the 'moveable property').

The children get one third of the moveable property to be shared equally between them.

If they are married/civil partners without children or grandchildren.



The surviving spouse/civil partner gets:

- the deceased's house or flat if the surviving spouse/ civil partner was living there when the person died;
- and up to £22,000 worth of furniture and furnishings in the house;
- and the first £58,000 of the estate;
- and one half of moveable property.

If they have no surviving spouse/civil partner, but they do have children.

The children inherit one half of the moveable property to be shared equally between them.



<p>In each of the cases above.</p>	<p>The remainder of the estate is inherited according to the Rights of Succession. Succession means that everything else goes to the people in the first group, i.e. children, but if there are no children then the next group of people will inherit everything else. If there are no parents or siblings, then the next group inherits everything else, etc.</p> <ul style="list-style-type: none"> ● Children ● Or parents and siblings (brothers and sisters) ● Or surviving spouse/civil partner ● Or uncles and aunts ● Or grandparents ● Or brothers and sisters of grandparents ● Or any other relatives ● Or the Crown
<p>If they are not married/ civil partners and do not have children.</p>	<p>The estate is inherited by relatives, according to the Rights of Succession given above, starting with parents and brothers/sisters.</p>



Hamish and Gilly are married with two children and live in Glasgow. They have not made a Will. If Hamish dies, leaving a house and £100,000 in savings and money from life assurance, who will inherit what?

Rules of intestacy in Northern Ireland

What happens when people die without a Will in Northern Ireland is:

<p>If they are married/ civil partners with no children or brothers and sisters.</p>	<p>The surviving spouse/registered civil partner gets everything.</p>
<p>If they are married/civil partners with children.</p> 	<p>The surviving spouse/civil partner gets:</p> <ul style="list-style-type: none"> ● all personal chattels (possessions such as a house, car, furniture, jewellery, clothes, books, etc); ● up to £125,000; ● one-half of the rest of the estate if there is one child; ● one-third of the rest of the estate if there are two or more children. <p>The children get the rest of the estate, divided into equal shares.</p>
<p>If they are married/ civil partners, have no children but do have brothers/ sisters</p>	<p>The surviving spouse gets:</p> <ul style="list-style-type: none"> ● all personal chattels (possessions such as a house, car, furniture, jewellery, clothes, books, etc);

	<ul style="list-style-type: none"> ● up to £200,000; ● one-half of the rest of the estate. <p>The deceased's brothers and sisters get the rest of the estate, divided into equal shares.</p>
If they are not married/ civil partners but have children.	The children inherit everything, divided into equal shares.
If there is no surviving spouse/civil partner or children.	<p>The parents inherit everything.</p> <p>If both parents are dead, brothers and sisters inherit,</p> <p>If there are no parents or siblings, more distant relatives inherit.</p>
If there are no relatives.	The Crown gets all of the estate.

Making Wills



Do you think you need to work with a solicitor to make a Will?

Wills are paper documents that must be signed by the will-maker. Two other people, who saw the will-maker sign the document, must also sign the Will as witnesses.

It is a good idea to use a solicitor to write a Will to make sure instructions are worded correctly so that they are clear and can be followed. This is especially true if someone's circumstances are not straightforward, for example, if they have stepfamilies, have been divorced or own a business.

People can also get Will Forms from stationers and use these. They might be legal and valid but it is not guaranteed, depending on the person's circumstances and the instructions they want to give. Advice is available from organisations such as the Citizens Advice Bureau (www.citizensadvice.org.uk) and Age Concern (www.ageconcern.org.uk).

People can make changes to Wills by adding to them. Additional notes to a Will are made in a document called a **codicil**. The original Will and codicil should be kept together so that executors can find all of the person's instructions.

People can also make new Wills. A newer Will replaces older Wills. The person making the Will states that they revoke (make invalid) all former Wills every time they make a new one.



Existing Wills are made invalid when you get married, so it is vital to make a new one. Why do you think the old Will becomes invalid?

Valuing goods and savings

When people die, their executors need to get a valuation of all their possessions so that the correct amount can be declared to Her Majesty's Revenue and Customs. This involves getting a valuation of their house, furniture, car, savings accounts, unit trusts, stocks and shares, etc.

The executors also need to collect together all the money owned by the deceased so that they can give it to the **beneficiaries** once any debts and tax have been paid. This money is held in a separate bank account so that it does not get confused with the executors' own money.

For example, Peter and Mary needed to give Betty's death certificate to the bank and insurance company to prove that Betty had died. The bank and insurance company then paid Peter and Mary the money owing to Betty. Peter and Mary opened a bank account in their name as executors of Betty's Will to hold this money.

Paying debts

As well as inheriting money and possessions, beneficiaries inherit debts. It is part of the executors' job to pay the money that the deceased owed at the time of their death, such as **mortgages**, **loans** and unpaid bills. For example, when Betty died she owed:

	£
Credit card and store cards	650
Unpaid gas, electricity and telephone bills	120
Bill for a new boiler	200
Total	£970



When people take out a mortgage to buy a house, they must also take out a life assurance policy for the same amount of money. Why do you think this is?

Paying inheritance tax

Inheritance tax is paid on the total estate before it is divided between the beneficiaries.

If people who are married/registered civil partners leave all their estate to their spouse/civil partner, no inheritance tax is paid. This is because spouses/civil partners are **exempt beneficiaries**. HM Revenue and Customs knows that the inheritance tax will be paid later, when the surviving spouse/civil partner dies.

Charities are also exempt beneficiaries, so any money left to them is done so tax-free.

In the tax year 2007 to 2008, the first £300,000 of an estate is always tax-free. This amount is the inheritance tax threshold. Inheritance tax is 40% of the estate beyond £300,000.



Seth is planning to leave his house and all his possessions to his sister Corinne in his Will. He is really pleased that he bought his house for £150,000 some time ago and the identical one next door just sold for £290,000. He has only got £2,000 in savings and so thinks his estate won't pay inheritance tax when he dies.

Will inheritance tax be payable on Seth's estate if he dies soon?

Inheritance tax example

On the day Betty died her estate was valued as:

	£
 House	240,000
 Car (Peter and Mary drove it)	8,000
 Furniture and household items	6,000
 Jewellery	2,500
 Savings in bank and building society	13,750
 Unit trust holdings	12,000
 Life assurance policy death benefit	25,000
Total	307,250

Betty died in July 2007 so the inheritance tax threshold is £300,000.

Peter and Mary, her executors, paid Betty's debts of £970 from the estate. They also paid for her funeral and a meal afterwards for the mourners: £5,500. These expenses are taken from the value of the estate before calculating inheritance tax: £307,250 – (970 + 5,500) = £300,780

Then the inheritance tax threshold is taken away to work out the value on which tax is calculated: £300,780 – £300,000 = £780

Inheritance tax is charged at 40%: £780 × 40% = £312.

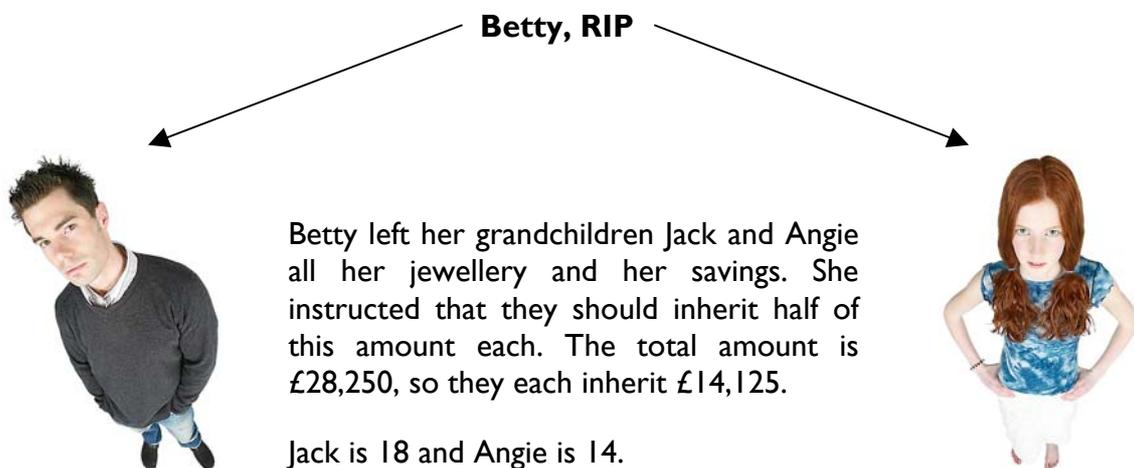
Authority for the executors to distribute money

Probate must be granted by a court of law before executors can pay beneficiaries their inheritance. Probate is the legal process of proving that the Will is genuine and giving powers to act to executors.

When young people inherit

People often want to leave money and possessions to their children or grandchildren. Will-makers often want to ensure that this inheritance is held safely until the children are at least 18 years old.

For example



Do you think Angie will be given £14,125 straight away?

People who want to leave money and goods to beneficiaries under the age of 18 will often set up a **Trust** for them. A Trust is when named adults are made responsible for looking after the inheritance for the young people until the beneficiaries reach 18 or an age specified in the Will.

The people who look after a Trust are called **trustees**. They have a legal duty to act in the best interests of the young beneficiaries.

For example, Salah and Chloe want to leave everything they own to their two children, Hassan and Tamsin, in equal parts. At the moment the children are aged 6 and 3.



In their Wills, Salah and Chloe specify that their estate should be held in trust for the children until they reach 25 years old. This means that Hassan will inherit his half of the estate on his 25th birthday, and Tamsin will inherit her half of the estate on her 25th birthday. Salah and Chloe name Salah's sisters as trustees.

Salah and Chloe chose 25 years old as the age for the children to inherit after discussing it with their family. They assume that Hassan and Tamsin will be planning on buying homes of their own or starting a family around this age. Keeping the money in trust until that time means that it will be safe and earning interest until the children need it most.



Do you think you need to work with a solicitor to set up a Trust?



Review questions

1. What do the beneficiaries of a Will inherit from someone who has died?
 - a. Money
 - b. Goods
 - c. Debts
2. What is the job of an executor?
3. What does 'intestate' mean?
4. In England and Wales, do people who live together have the same inheritance rights as people who are married or registered civil partners?
5. What is the purpose of a codicil?
6. Wills made when people are single are not valid after they get married.
 - a. True
 - b. False
7. What is the threshold for inheritance tax in the tax year for 2007 to 2008?
8. At what percentage is inheritance tax charged?
9. What is the name given to an adult that looks after money in a Trust?



Case studies

1. Spence and Bryony are in their mid-twenties. They have borrowed £120,000 to buy their own home and will be paying back the mortgage for the next 25 years. They have three children under the age of 5.



Spence and Bryony have not made Wills because they feel they are too young to do so.

List the reasons why they should both make a Will now.

2. Yan is planning his Will. He wants to make sure that his wife Chu will not have to sell their family home to pay inheritance tax. Based on the figures for the tax year 2007–2008 Yan has calculated that his estate is worth £350,000.

How much life assurance does Yan need to buy to cover his inheritance tax bill in case he dies this year?

Learning activities



Internet

1. Go to www.lawontheweb.co.uk, click on 'Legal basics', then click on 'Wills and probate'. Find the four reasons given for making a Will now.
2. Use the Internet to find out what the following words and phrases mean: legacy, mirror wills, bequest.
3. Go to www.houseprices.co.uk to find out what houses are selling for in your postcode or local town. Is this amount under the inheritance tax threshold?
4. Find the websites of some charities and find out how people leave money to them in their Wills.



Group

1. Create a fictitious family. Give names to the grandparents, parents and children. Decide what sort of building they live in, whether they own their home, what transport they use, and what other items they own such as a TV and a stereo. Now imagine that the grandmother or grandfather has died.
 - a. What would be the value of the estate they left?
 - b. Who would inherit in their Will?
 - c. Who would inherit if they did not leave a Will?

2. Draw a diagram showing who inherits from a person who dies intestate in the country where you live.



Individual

1. Decide at what age you will make a Will. Why did you choose this age?
2. Create a glossary of words used when talking about inheritance.



Key points for Inheritance

- People who receive money, goods or debts from a person who has died are said to inherit them.
- When someone dies their death must be registered in official records. The Registrar of Births and Deaths issues a death certificate that is used to identify the deceased to banks, life insurance companies, etc.
- Wills are written documents that give instructions about what should be done with money and possessions after the will-maker dies.
- Executors carry out the instructions given in the Will. Their job is to collect together all the money and goods owned by the deceased, to pay any debts and inheritance tax and then give the estate to the beneficiaries according to the instructions in the Will.
- If someone dies without leaving a Will, they are said to have died intestate. There are rules that decide who inherits what, if there is no Will. These rules of intestacy are different in:
 - England and Wales;
 - Scotland;
 - Northern Ireland.
- It is a good idea to use a solicitor to make a Will so that instructions are clear.
- People can add to and change Wills by writing a codicil. This is a separate document that must be kept with the original Will.
- Marriage or registering a civil partnership makes previous Wills invalid.
- Probate is the legal process of proving that a Will is genuine and giving power to the executors.
- Money collected by executors for the deceased's estate must be kept in a separate bank account.
- Executors must pay the deceased's debts, for example loans and unpaid bills.
- Inheritance tax is charged on the value of an estate above a threshold. The threshold for the tax year 2007 to 2008 is £300,000. Inheritance tax is charged at 40%.
- Inheritances for young people are often placed in a Trust until they are old enough to manage the money for themselves. Adults called trustees must manage the Trust in the best interests of the beneficiaries. The will-maker can specify the age at which the young people will inherit the money.