

Lincolnshire Adult Care Protection of Property Guidance

1) Introduction

The county council will take reasonable steps to safeguard moveable property of an eligible person that might be deemed to be at risk of damage or loss, if there is no alternative arrangement available, and having due regard to the health and safety of staff performing this duty.

The county council regards persons admitted to hospitals by staff transferred to partners such as the Lincolnshire Partnership Trust to remain the responsibility of the local authority for protection of property purposes, in line with the Care Act 2015.

The county council will not charge for protection of property services but will expect in majority of cases the person being supported by Adult Care to reimburse the council for expenditure made on their behalf. These could be one off costs such as new locks or ongoing costs such as kennel fees.

If it is found that the person being supported is in receipt of an income level that would entitle them to nil or minimum charge in accordance with LCC Adult Charging policy, then it is permissible for the County Manager to waive recovery of the expenses incurred by these procedures. The protection of property will continue even if the expenses incurred are not reimbursed.

The council does not expect staff to assess the monetary, or likely monetary value of any items found in the residence of the person being supported.

The council does not expect staff to concern themselves with insurance of items remaining in the property or within the boundaries of the property such as garages, sheds, driveways and gardens.

The council expects staff will ensure the property is locked and secured at least the same degree that the person being supported was previously able to lock and secure the property.

All major decisions made concerning the property including the defrosting of freezers, switching off of electricity and water, disposal of food/medication etc. should be made with consideration as to whether the service user is likely to return to the property or not.

2) Legislative Context

S47 of the Care Act 2014 supersedes the duty contained in s48 of the National Assistance Act 1948 for local authorities to prevent or mitigate loss or damage to the property of adults who have been admitted to a hospital or care home, and are unable to protect or deal with it themselves.

The following criteria must be satisfied in order to trigger the duty:-

- The adult has care and support needs (eligible needs or otherwise) which are being met through the provision of accommodation and/or the adult is admitted to hospital;
- There is a danger of loss or damage to the adult's moveable property;
- The property is in Lincolnshire County Council's area;
- The loss or damage is because the adult is unable (whether permanently or temporarily) to protect or deal with the property, and no suitable arrangements have been or are being made.

This does not mean that Lincolnshire County Council is expected to take on this duty in all circumstances, for example if there are family members or friends and it is appropriate for them to make arrangements to protect the person's property then they should carry out this role.

In order to carry out this duty, adult care may (at a reasonable time and following a reasonable notice period) enter the property where the adult was living immediately before being provided with accommodation or admitted to hospital. The consent of the adult is required before entering the property. If the adult lacks capacity to give their consent then check to see if there is a registered attorney or Deputy appointed by the Court of Protection who has been authorised to make this decision on behalf of the adult (Please see note below in relation to Attorneys and Deputies). If no one has been formally appointed to act on behalf of the adult who lacks capacity to make this decision then adult care must make a best interests decision under s4 of the Mental Capacity Act 2005.

Once adult care has gained access to the property, it may deal with preventing loss or damage to any physical moveable property belonging to the adult. Moveable property is personal property and can be distinguished from immovable property for example a house or land. As a minimum, adult care should secure the accommodation.

The definition of moveable property includes pets. In cases where an adult has pets, adult care should put in place arrangements to ensure that the pets are looked after in their owner's absence or are accommodated elsewhere, for example in kennels.

Adult care is able to recover from the adult any reasonable expenses incurred in protecting the adult's property.

3) Lasting Power of Attorney/Court of Protection appointed Deputy

Lasting Power of Attorney ("LPA") – this is a legal tool that allows a donor to appoint someone aged 18 or over to make certain decisions on their behalf. The appointed person is called an attorney (please note that several attorneys may be appointed to act). LPAs were created under the Mental Capacity Act 2005, and came into effect on 1 October 2007. The LPA replaced the former enduring powers of attorney ("EPA"). EPAs relate only to property and financial matters and do not deal with medical or welfare decisions.

An attorney appointed under a LPA can be for health and welfare or property and financial affairs (or both). In order to appoint an attorney, the donor must have capacity to make the relevant decision: appointing an attorney to act on their behalf to make decisions for them in relation to the relevant areas. Once the LPA is registered, an attorney can act for someone that has or lacks capacity to make the relevant decision. Do note that if the donor has capacity to make the relevant decision and they decide that they no longer want the attorney to act on their behalf, the LPA can be revoked.

To be valid, the LPA must be registered with the Office of the Public Guardian ("OPG"). Ask for a copy of the registered document which should bear the stamp of the OPG on the papers. If the document is not available, the OPG can be contacted directly to check if the LPA is registered. This can be done by completing form OPG100 and emailing the form to: customerservices@publicguardian.gsi.gov.uk

A Deputy is someone aged 18 or over appointed by the Court of Protection to make decisions for someone who lacks capacity to make the relevant decision/s. As with an LPA, a Deputy can be appointed to deal with health and welfare and/or property and financial affairs. A Deputy is appointed by order of the Court of Protection; the order should bear the stamp of the Court of Protection. It is possible for more than one person to be appointed as a Deputy. As with an LPA, always ask for a copy of the document or check for the existence of a Deputy by completing form OPG100, as above.

If there are concerns relating to the conduct of an Attorney or Deputy, practitioners will need to be aware that further investigation and safeguarding may be necessary. Please refer to the [relevant sections of the Adult Care Manual for further information.](#)

4) Process for Safeguarding Property

Please note: In the case of a person being sectioned, an AMHP would be expected to carry out the initial securing of property as well as taking care of any urgent protection of property related issues ie. Care of pets. After this, the remaining protection of property process would then be passed to a relevant team and practitioner. This would be LPFT if the person is under the age of 65, the LD Team if the person is being supported by LD, and Adult Frailty if the person is an older adult.

At the time the Adult Care Practitioner is notified of an admission to hospital or residential accommodation, the allocated Adult Care Practitioner should establish the circumstances relating to their usual place of residence.

Inform the local police station immediately of the fact that the property is now unoccupied and that LCC have accepted responsibility for protection of moveable items which may be at risk. Lincolnshire Police non-emergency number is 101.

It is a legal requirement to obtain the consent of the person for any actions to be undertaken either by a third party or by staff from Adults' Services. If the person being supported is able to make a decision to either agree or refuse permission to LCC staff to undertake to protect their property then the consent form should be signed by the person

being supported and independently witnessed. A copy should be kept on the individuals paper file and also scanned in to the customer record.

In all circumstances where there appears to be a need for a person's property to be protected under the Care Act, a care worker must check whether there is anyone else, other than the adult concerned, who has a key to the premises and would be prepared to accept the responsibility of protecting the property. This person does not need to be the next of kin or even a relative - a close friend or caring neighbour can undertake the responsibility. However if there is someone who has a Power of Attorney authority then that person must be contacted.

Good practice would ensure that, where there is an alternative person who can undertake this role, the adult is informed that such arrangements are being made. An entry to this effect should be made in the person's case record.

Where the person's accommodation is already secure it is possible that formal protection of property arrangements may not be needed and access can later be gained to the accommodation with the consent and cooperation of that adult. This might be necessary, for example, to remove perishable food items from the fridge and/or to check the central heating and utilities or to collect mail.

The visit, wherever possible should be during working hours so that the facilities to place valuables are available, the visit should be by two members of staff, one member of staff must be an Adult Care Practitioner; the other member can be an area business support team member, acting as a witness. Both LCC staff members must agree and complete the Protection of Property Risk Assessment. – APPENDIX B. This will ensure all risks are considered both before and during the protection of property visit(s). The staff will need to enter the property and take an inventory of the contents including items in out-buildings; at no time should one person be left unattended in a room/outbuilding.

The whereabouts of all keys to the property should be ascertained. Any keys held by other persons should be obtained and kept in the safe custody of the local area office by the area business support team. The property keys (including any other cases found on the premises, e.g. desk or safe keys) must be labelled with a number only. This number and the address of the property it refers to should only be recorded in the property documentation (i.e. the inventory), which must be kept separately to the keys in a secure location such as a lockable filing cabinet. Area Business Support will take responsibility for the safety and recording of property/keys stored in the local area office.

If there is any doubt about the whereabouts of keys then the locks should be changed, contact a local reliable locksmith who will be acceptable to invoicing LCC for the cost of work completed.

The staff must ensure any vehicles are locked and any remaining keys in the property are removed and labelled as per the keys to the house and outbuildings.

Staff should not enter a property that appears to be unsafe, the person being supported should be informed that Adult Care Practitioner will not enter the property, and the local police station notified as to the circumstances.

If there are animals on the property and staff, are unable to access the property due to safety reasons or gain entry for any other reason, then local police should be contacted that there is an animal in the property and it is unoccupied (non – emergency number for Lincolnshire police is 101). The Adult Care practitioner must inform their manager of these circumstances immediately and ensure it is documented in the Adult Care files.

Where SERCO Court of Protection Admin team are applying for Deputyship on behalf of LCC for the person being supported, then they should be kept informed of the protection of property and any changes in circumstances, including the change of team/key worker.

When the Adult Care area team/ hospital team are made aware that a protection of property is required, then an initial visit will be made to safeguard the property, this will include:-

- Take care of pets
- Disposal of food
- Take an inventory in each room/outbuilding
- Remove valuables & important documentation into LCC custody
- Put out fires
- Turn off stop tap/drain water tank
- Locking windows & doors

Staff should be equipped with:-

- Protection of Property Inventory Form – APPENDIX C
- Checklist for securing property – APPENDIX D
- Contact numbers for local police, local providers i.e. plumber/locksmith
- Contact number for local vet, The Cinnamon Trust (Charity for Elderly and their Pets)
- Protective clothing i.e. plastic apron, gloves, face mask
- Torches
- Disposal/Rubbish bags,
- Mobile phone
- Labels/Tags i.e. for keys

Managers are to use Staffing Budgets to ensure that staff have access to stocked protective equipment and items

Staff should allow a minimum of two hours for the initial inspection but once on site should assess if timescale may be longer and immediately inform their area office.

If the property has broken doors and windows, the ASC team manager should be informed and a local firm should be contacted to visit whilst the staff are on the premises in order to board or glaze windows and repair doors, to ensure property is secure.

If the property is rented, possibly there will be a rent book with landlord/rental agent details. Before any contact is made with the landlord permission must be sought with the person being supported to inform the landlord of the circumstances.

If the person being supported is deemed to have capacity to decide and does not want the landlord to be contacted then they should complete and sign the consent form and the details should be recorded in the relevant Adult Care files.

If, on the basis of the two stage test a person is assessed as lacking capacity to decide, the Act allows the decision maker to make what is termed a 'best interests' decision on their behalf. All relevant forms must be scanned and attached to a person's electronic record.

If the property is known to be a Council owned property and thought to be infested by vermin or pests then entry should not be attempted until the property is no longer a health risk. Arrangements should be made for pest extermination services through the appropriate local District Council.

If the property is privately rented then the Landlord should be contacted so they can make arrangements. If this is not possible because the person being supported has signed the form to state they do not want the Landlord contacted then advice should be sort through the Lead Practitioner/Locality Lead regarding next course of action.

Any current prescription medicines should be taken to the current carers, family, of the person being supported. If it is out of date medicine it should be disposed of at the local pharmacist. If it is suspected there are illegal substances on the premises the local police should be informed immediately, and the substances left where found until the police advise a course of action.

The section relevant to medication on the protection of property inventory form should be completed to cover drugs and medicines found in the property, including where found, and how they have been disposed of and who has been contacted.

If any firearms and/or weapons (including antiques) are found in the property or in the outbuildings, the local police must be informed that they are in the property.

Any services such as milk, newspaper delivery, lifeline, homecare should be cancelled discreetly. Services to the property such as water should be turned off at the stop tap and the tank full drained, this must happen at the first visit to the property and recorded on the inventory form as completed. Where staff are unsure of locality of stop tap and how to drain the tank then they must contact a local plumber to attend, however the plumber must be willing to invoice LCC – Adult Care as there is no access to Petty Cash. Electricity may still be needed to be on if there is a fridge/freezer which still contains food.

If the person being supported is not expected to return home within two weeks, it is advisable for the mail to be collected from the property weekly and signed in to the area office by two staff and noted on the Adult Care electronic file.

It is not permissible for a third party to inform the Post Office of redirection so if service user is likely to be absent from the property long term then he/she should be asked to sign a re-direct form.

If this is not possible i.e. where no mental capacity to sign the form, then it may be that staff need to visit the property weekly for a longer period until permanent arrangements are in place for the person being supported. It is important that no build-up of post can be seen externally as this may encourage damage to the property and/or identity theft where post is left partially in the letter box.

5) Health and Safety

Staff should not make assumptions about the cleanliness or otherwise of a property but should take suitable precautions such as wearing protective clothing. This may be overalls, gloves and face masks, which should be readily available at the area office.

Staff should not enter a property that appears to be unsafe, the person being supported should be informed that Adult Care Practitioner will not enter the property, and the local police station and/or Fire Brigade notified as to the circumstances.

The Adult Care practitioner must inform their manager of these circumstances immediately and ensure it is documented in the Adult Care files.

6) Inventory

The council defines moveable property that may be at risk of loss or damage to be:

- Documents such as passports, wills, bank books, share certificates, cheque books, debit and credit cards, insurance certificates, savings bonds, premium bonds, or other forms of securities
- Jewellery including watches
- Cash
- Computer/Laptop
- Mobile phone, other portable devices such as iPad.
- Livestock, including household pets
- Keys
- Any other item which the person being supported expresses concern and which may be reasonably moved from their residence into county council storage.

Descriptive terms only should be used i.e. **Finger ring, yellow metal, 3 blue stones; £20 in cash**

Once the inventory has been made, moveable items that are deemed to be at risk if left on the premises should be marked as removed to LCC custody.

Important documents such as wills or statement of wishes made by the person being supported or any reference to the next of kin or solicitor should be removed along with the contents and buildings insurance policy.

Practitioners are encouraged to consider what is proportionate when recording property. For example a large collection of books, CDs or DVDs can be combined into one Inventory entry.

Both members of staff must sign to verify the inventory is an accurate record and the checklist for securing the property has been completed prior to leaving the property.

7) Payments for Services and Recovery of Costs

Any services undertaken to obtain entry, clean, secure or remove items/animals from the property, the provider will need to invoice LCC through the local area business support team. The Adult Care Practitioner undertaking the protection of property must seek approval prior to arrangements for services, authorisation should be by the Lead Practitioner/Locality Lead or in their absence the General Manager.

The ASC Practitioner will need to enter onto the customer record a Purchase Service Request which will have been previously authorised by their Lead Practitioner on to the area business support team so they can process related invoices for payment.

The SERCO Court of Protection Administration Team must be kept informed and sent evidence of all expenses for cases which they are on behalf of LCC applying for Deputyship or are Deputy for the person using services.

The person being supported should be informed in writing of the amount of costs to be recovered and that an invoice will be issued for those costs. If the person being supported is in receipt of a low income and is unable to pay the invoice in full, an instalment arrangement may be put in place with prior agreement from the Lead Practitioner/Locality Lead/General Manager.

If there is evidence that because of a very low income the person being supported may suffer hardship, then an adult charging assessment may be completed. If the result is a Nil or minimum charge the protection costs may be waived. The waiver form - APPENDIX E to be completed by the ASC Practitioner/Lead Practitioner/Locality Lead and then sent through to the County Manager for authorisation. The decisions and copy of forms must be documented in the appropriate ASC files.

8) Animals

If there is a domestic pet on the property then it should only be approached if it is certain it does not pose a threat to the worker, or is not a cause for concern to the particular worker involved. If the animal is known or thought to be a threat to any one's safety then the ASC practitioner should contact the local police and inform their manager and document in the ASC files.

If there is no suitable arrangement possible or a friend or relative cannot take in the animal and provide it with food, etc., then suitable care arrangements will need to be put in place i.e. local cattery/kennels.

The Adult Care practitioner completing the protection of property will need to contact a local kennel/cattery and arrange for the collection of the animal.

The Cattery/Kennels will require a Purchase Order so they can invoice LCC for the costs. A record must be kept to ensure costs can be reimbursed to LCC by the person being supported once they have returned home.

It is inadvisable for a third party to have access to the premises to care for animals. If the animal is unusual or is classed as livestock then the advice of the local veterinary practice should be taken with regard to care arrangements. All discussions/actions must be recorded in the ASC files.

If the person being supported is not expected to be able to care for the pet again then a decision about re-homing the pet must be pursued, where the person being supported has capacity to make such decisions, they must be fully involved in the process and agree to the outcome.

Where the person lacks capacity to decide upon the care of an animal, then the discussion should be held with carers, friends/relatives about future care arrangements for the pet. Where there is no one to assist with this decision then it should be discussed with the current care provider for the pet to see if they can assist in re-homing.

9) Pests

If the property is known to be a Council owned property and thought to be infested by vermin or pests then entry should not be attempted until the property is no longer a health risk. Arrangements should be made for pest extermination services through the appropriate local District Council.

If the property is privately rented then the Landlord should be contacted so they can make arrangements. If this is not possible because the person being supported has signed the form to state they do want the Landlord contacted then advice should be sort through the Lead Practitioner/Locality Lead regarding next course of action.

Please contact your district council for support with pest removal and other housing issues that may require the support of tradespeople.

Boston Borough Council

tel: 01205 314200

City of Lincoln Council

tel: 01522 881188

East Lindsey District Council

tel: 08446 601111

North Kesteven District Council

tel: 01529 414155 or 01522 699699 if calling from a Lincoln number

South Holland District Council

tel: 01775 761161

South Kesteven District Council

tel: 01476 406080

West Lindsey District Council

tel: 01427 676676

10) Police

Inform the local police station immediately of the fact that the property is now unoccupied and that LCC have accepted responsibility for protection of moveable items which may be at risk. Lincolnshire Police non-emergency number is 101.

11) Cash

Cash found on the property must be counted by the two staff carrying out the visit and the amount, detailing how many notes & coins should be entered on the inventory form. Cash should be banked where possible the day of the visit, therefore it is important to try and schedule visit within normal working hours.

The council currently provides cover for up to a maximum of £5,000 in transit, by authorised LCC employees, there must be two employees with the cash at all time. The cash must be counted at the location and verified by both employees. If there is a manager on site if it is found at sheltered/extra care housing than it would be appropriate for them to authorise and for a receipt to be drawn up. For monies up to this amount we would request that all risks are kept to a minimum to ensure that cover is in place for any loss.

For any monies over this amount it would be recommended that an authorised courier transport the money to a secure location, such as a bank or building society.

Please contact Adult Care Finance Team on 54235 or Court of Protection Admin team 55698 if you have any queries prior to moving the cash.

12) Keys to Property/Vehicles

The whereabouts of all keys to the property should be ascertained. Any keys held by other persons should be obtained and kept in the safe custody of the local area office by the area

business support team. The property keys (including any other cases found on the premises, e.g. desk or safe keys) must be labelled with a number only.

This number and the address of the property it refers to should only be recorded in the property documentation (i.e. the inventory), which must be kept separately to the keys in a secure location such as a lockable filing cabinet. Area Business Support will take responsibility for the safety and recording of property/keys stored in the local area office.

If there is any doubt about the whereabouts of keys then the locks should be changed, contact a local reliable locksmith who will be acceptable to invoicing LCC for the cost of work completed.

The staff must ensure any vehicles are locked and any remaining keys in the property are removed and labelled as per the keys to the house and outbuildings.

13) Medication and Drugs

Any current prescription medicines should be taken to the current carers, family, of the person being supported. If it is out of date medicine it should be disposed of at the local pharmacist.

If it is suspected there are illegal substances on the premises the local police should be informed immediately, and the substances left where found until the police advise a course of action.

The section relevant to medication on the protection of property inventory form should be completed to cover drugs and medicines found in the property, including where found, and how they have been disposed of and who has been contacted.

14) Firearms and Weapons

If any firearms and/or weapons (including antiques) are found in the property or in the outbuildings, the local police must be informed that they are in the property, after which they will attend and remove the weapons. The Firearms Licensing Department can be contacted on 01522 558533.

15) Food

Perishable food should be cleared and disposed of in the most appropriate manner to mitigate pest problems. The fridge/fridge freezer should be turned off and defrosted if it has been emptied.

16) Services to Property

Any services such as milk, newspaper delivery, lifeline, homecare should be cancelled discreetly. Services to the property such as water should be turned off at the stop tap and

the tank full drained, this must happen at the first visit to the property and recorded on the inventory form as completed. The boiler must also be switched off.

Where staff are unsure of locality of stop tap and how to drain the tank then they must contact a local plumber to attend, however the plumber must be willing to invoice LCC – Adult Care as there is no access to Petty Cash. Electricity may need to be left on if there is a fridge/freezer which still contains food.

17) Mail

If the person being supported is not expected to return home within two weeks, it is advisable for the mail to be collected from the property weekly and signed in to the area office by two staff and noted on the ASC file.

It is not permissible for a third party to inform the Post Office of redirection so if service user is likely to be absent from the property long term then he/she should be asked to sign a re-direct form, with mental capacity to be taken into account.

If this is not possible i.e. where the person lacks mental capacity to consent, then it may be that staff need to visit the property weekly for a longer period until permanent arrangements are in place for the person being supported. It is important that no build-up of post can be seen externally as this may encourage damage to the property and/or identity theft where post is left partially in the letter box.

18) Moveable Items

Upon completing the inventory for the property, practitioners should contact the Team Manager for SERCO Court of Protection Administration Team, currently Cheryl Moore, on 01522 555698. Arrangements can then be made for the inventory items to be taken to secure storage at Lincoln County Offices. The witnessed inventory must accompany the items.

The receipt section of the inventory form will be completed and witnessed by SERCO and will be given to the Adult Care Practitioner for the goods. All property should be tagged/labelled with the person being supported and their Mosaic number.

The person being supported should be informed of the removal of the items to LCC care and given a copy of the inventory and receipt which they sign for where they have capacity. There must be a copy of the inventory form and receipt placed on the customer record.

Where there is no capacity to sign then it can be given to the individual who has legal authority to act on their behalf. (Proof should have been obtained) If no proof then all the documentation must remain in the Adult Care records.

Where SERCO Court of Protection Admin Team are applying for Deputyship on behalf of LCC, then copies of all documentation must also be sent to them to keep on their file for the person being supported.

Any revisions to the inventory on further visits must be dealt with in the same manner as the initial items that were removed as detailed above.

19) Storage

Where practitioners have exhausted all options in finding a third party to support in the storage of moveable property, SERCO Court of Protection Admin Team will store all items in the basement secure area in Orchard House, all items will be stored in cupboards or the safe unless too large to fit in these places. In the latter instance items will be stored off the floor on metal racking.

Access to the storage area is controlled by SERCO Court of Protection Admin Team when property is required to be released back to the person being supported the ASC Practitioner must sign for the property.

20) Returning Home

If the person being supported returns to their own home or the home of a relative, the items of moveable property must be returned to them.

The Practitioner should also support the returning service user with services to property, including switching on of electricity, water and boiler. AGE UK's Home Safe Service can be contacted on 01983 525282 for support in this matter.

The ASC practitioner must also get APPENDIX C of the protection of property inventory form signed on return of moveable property by the person being supported to confirm they have received the property back into their custody.

The ASC practitioner must give a signed copy to the person being supported and a copy to SERCO when they have been involved in the temporary storage of the property and keep a copy on the ASC file.

If a service user will not be returning then the Telecare department must be contacted with reference to returning any equipment that is no longer needed by the Service User

21) Placement in a Residential/Nursing Home

If the person being supported is placed in a Residential/Nursing home the property in the care of the LCC should be taken to the placement. It is possible the ASC Practitioner may still at this point be tasked with supporting the person with their premises.

The ASC practitioner should obtain a signature from the care home manager of the property that has been brought to the care home. Practitioners should be very aware of specific item issues i.e. Items that are too big or very expensive.

The ASC practitioner must then get the section on return of moveable property on the protection of property inventory form signed by the person being serviced to say they have received the property back into their custody. The ASC practitioner must give a signed copy to the person being supported, a copy to SERCO when they have been involved in the temporary storage of the property and a copy to be placed on the ASC file.

22) Death of Service User

Every effort should be made to ascertain the wishes of a service user with regard to disposal of the property, to be used in the unfortunate circumstance of a service user passing away.

If the person being supported has made a will and this can be located then the executors should be informed of the property and arrangements made to hand this over. The executor should provide adequate evidence of identity and should sign the section of the protection of property inventory form for the items handed over to them.

If there is no will or letter of intent then the next of kin if known should be asked to collect and sign for any items of the property held for the person being supported and a receipt should be given and a copy kept on the ASC file. The next of kin should provide adequate evidence of identity and relationship to the deceased.

If a person being supported dies with no next of kin then the property must be treated according to the Treasury rules. Please see Appendix F Referring cases to the Treasury Solicitor (BV) - A guide for local authorities and hospitals. Also see the link for Treasury Solicitors

<http://www.bonavacantia.gov.uk/output/Referring-Estates-To-The-Treasury-Solicitor.aspx>

Best Practice Example

For this example we will be looking at the support given to Mary (name changed).

Mary was admitted to hospital. She had no family or friends and was very confused. She had had a very happy and fulfilling marriage and she and her husband Desmond (name changed) had lived in a flat in Crawley. Their lives were centred around each other. When Desmond died a few years ago Mary's life fell apart.

HC, a social worker in the hospital, undertook the protection of Mary's property. Mary's flat was full of items hoarded over the years and lots of cash was discovered in bin liners, or under the bed or in the rubbish.

With help, HC spent hours sorting through all this mass of information. She found bundles of letters tied with ribbon, love letters to Mary from Desmond whilst he was away fighting in the Second World War, and small items of jewellery that she knew probably meant so much to Mary. HC was able to give these very personal and precious items back to Mary.

HC also spent time with Mary in the residential home, bringing her compact discs, photographs and memorabilia from her flat - all of which took Mary back to the happy life she had had with Desmond.

Mary needed clothes and other personal items and HC worked with the care home staff to make sure that Mary's wellbeing was not being compromised just because she was in a care home and no longer in her own flat. HC prepared documents for the Court of Protection and cleared the flat and arranged for regular visits from Age UK as Mary had no one else to visit her in the care home.

This could have so easily been 'just a care home admission' and the flat clearance could so easily have just been about assigning a lot of Mary's personal history and happy memories to the rubbish tip. Instead, because HC took a bit of time and care, Mary is now comforted by her letters and photographs and has settled well in her new accommodation, surrounded by her own belongings.

APPENDICES

- **APPENDIX A – CONSENT FORM**
- **APPENDIX B – PROTECTION OF PROPERTY RISK ASSESSMENT**
- **APPENDIX C – PROTECTION OF PROPERTY INVENTORY FORM**
- **APPENDIX D – CHECKLIST FOR SECURING PROPERTY**
- **APPENDIX E – WAIVER FORM (Please refer to Section 7 – PAYMENTS FOR SERVICES & RECOVERY OF COSTS for when this form should be used)**
- **APPENDIX F – REFERRING CASES TO THE TREASURY SOLICITOR**

Consent / Acquittal Form- Protection of property	
ASC Practitioner confirms the person named below has demonstrated they fully understand (has capacity) to make the following decisions and signs below to confirm	
Complete either A, B, C or D below and ensure all parties sign and date the form	
Name of person:	
Address:	
A) I give permission for Lincolnshire County Council (LCC) to give the keys of the above property to:	
Name of third party:	
Address & contact details of third Party:	
This person will undertake full responsibility for my property including buildings and contents and will provide full care for any animals I maintain.	
B) I do not give permission for LCC to enter my property under any circumstances	
I absolve LCC from all responsibility in connection with the above property, contents Thereof and animals I maintain under the Care Act 2015	
C) I give permission for a representative of Lincolnshire County Council to enter my property and take responsibility for the above property, contents and animals under the Care Act 2015	
D) Acting in the 'Best Interest' of the person Lincolnshire County Council will enter the property and take responsibility for the above property, contents and animals under the Care Act 2015	
Signed by person:	
Date:	
LCC representative name:	
LCC officer signature:	
Date:	
The ASC representative is confirming the person has capacity to make this decision	

Note: If the ASC practitioner is concerned that the person may not have capacity to confirm this consent / acquittal an assessment of their capacity must be undertaken. If, on the basis of the two stage test a person is assessed as lacking capacity, the Act allows the decision maker to make what is termed a 'best interests' decision on their behalf. All relevant forms must be scanned and attached to a person's electronic record.

Protection of Property Risk Assessment

The council does not expect staff to enter or attempt to enter a property that appears to be unsafe, or may present a health risk, i.e. property is verminous or contains potentially dangerous animals. Potential risks can be recorded initially on the form below and assessed during each visit.

- At least two members of staff present on all protection of property visits.
- Staff involved are fit and capable of carrying out the task(s).
- Staff to gain as much information on risks at property prior to the visit from practitioners, partners, family etc
- Mobile phone to be available.
- Staff to wear suitable clothing and footwear ie not high heels or open toed sandals.

Potential hazards	✓/N/A	Controls
Parking		Ensure parking near enough to property for carrying equipment into and removal of items .
Access - trip hazards external or internal due to storage of items/furniture		Check access safe prior to or on arrival staff to be vigilant check conditions when working in the property. If no electricity is lighting sufficient?
Personal protective equipment required Infection control		Disposable Overalls, gloves, face masks, cover shoes. Handwashing facilities may not be available ensure alcohol gel or hand wipes available.
Animals		Refer to guidance
Infestation		Staff not to enter until further action taken refer to District Council or pest control contractor see guidance.
Mains services risks		Any indication of faulty or defective gas or electrical fittings staff to leave the premises and report to National Grid 0800 111 999 or local gas engineer or electrician
Structural risks/falling objects		Carry out visual check of ceilings and check for falling objects in areas to be worked in.
Staff welfare		Depending on conditions - limit time spent in the property, lack of heating if winter, accessibility to toilets, drinks etc or make arrangements.
Minor injuries		Small first aid kit and mobile phone to be available.
Other Hazards		

LINCOLNSHIRE COUNTY COUNCIL
PROTECTION OF PROPERTY INVENTORY FORM

NAME OF PERSON BEING SUPPORTED BY ASC:

MR/MRS/MS/MISS.....

ADDRESS:.....

.....

.....

ADMITTED TO:.....

.....

.....

DATE ADMITTED:.....

PLEASE NOTE: STAFF SHOULD ALLOW A MINIMUM OF TWO HOURS FOR INITIAL INSPECTION, IF THEY FEEL IT WILL TAKE LONGER THEY MUST INFORM THEIR TEAM MANAGER IMMEDIATELY)

NAMES OF ASC STAFF (ONE MEMBER SHOULD BE AN ASC PRACTITIONER) CARRYING OUT PROTECTION OF PROPERTY

STAFF MEMBER 1:.....

STAFF MEMBER 2:.....

DATE OF FIRST VISIT TO PROPERTY:.....



DETAILS OF PROPERTY:

PROPERTY TYPE	PLEASE TICK	OWNERSHIP DETAILS	PLEASE TICK
HOUSE		OWNED	
BUNGALOW		RENTED - PRIVATELY	
APARTMENT		RENTED - HOUSING ASSOCIATION	
CHALET		RENTED LOCAL AUTHORITY	
CARAVAN			

INVENTORY DETAILS:

ROOM AND DESIGNATION (ie. Lounge, kitchen etc.)	MOVEABLE PROPERTY
ROOM 1	ie. THREE PIECE SUITE, DINING TABLE, COFFEE TABLE, DINING CHAIRS, SIDEBOARD, EASY CHAIR, TABLE LAMP, BUREAU, STANDARD LAMP, RUG, PICTURE, NEST OF TABLES, CLOCK, DISPLAY UNIT, TELEVISION, SKY BOX/FREE VIEW BOX, VIDEO RECORDER, DVD PLAYER, STEREO SYSTEM, MIRROR

ROOM 2

ROOM 3

ROOM 4

ROOM 5

ROOM 6

ROOM 7

ROOM 8

ROOM 9

ROOM 10	
---------	--

OUTDOOR ROOM AND DESIGNATION (ie. Garage, shed etc.)	MOVEABLE PROPERTY
ROOM 1	

ROOM 2	
--------	--

DOCUMENTATION

DESCRIPTION OF DOCUMENT	PROVIDER
Ie. PASSPORT, BIRTH CERTIFICATE, INSURANCE etc.	

FURTHER PROPERTY INFORMATION

KEYS

Please note below the number of sets of keys to the property and any outbuildings

.....
.....

Please advise below where the keys to the property/outbuildings are being held and by whom?

.....
.....
.....

Please provide details if you have reason to believe keys to property may be with friends and/or family.

.....
.....
.....

CASH

Amount of Cash found

.....

Will the Cash be banked or taken to person being supported?

.....

If Cash is not to be banked immediately in the person being supported own bank/building society where will it be stored securely in the short term?

.....

Please confirm you have a receipt for the Cash that has been banked and who has been given a copy of the receipt

.....

Please confirm there is a copy of the receipt also on the person being supported ASC file.

YES / NO

VEHICLES

PLEASE NOTE VEHICLE(S) REGISTRATION/ MAKE/MODEL/COLOUR	PLEASE NOTE WHERE VEHICLE(S) LOCATED i.e GARAGE/DRIVE/STREET	PLEASE NOTE NUMBER OF KEYS LOCATED

NOTIFICATION TO POLICE

Please use space below to confirm time/date you contacted local police to advise property is now unoccupied. Please give details if you needed to advise the police of further matters related to the property i.e Firearms/Weapons (incl antiques) in property/unsafe building/illegal substances. Please note down an incident number and/or a contact name.

.....

.....

.....

.....

.....

.....

MEDICATION/DRUGS

NAME OF MEDICATION	DETAILS OF WHO TAKEN TO	DETAILS OF DISPOSAL

SERVICES TO PROPERTY

Please confirm type of fuel used at the property i.e Gas/Electric Heaters/Oil/Calor Gas.

.....

Please provide meter readings (where applicable) for:-

Gas Reading :	Date Taken :
Electric Reading :	Date Taken :
Water Reading :	Date Taken :

Please confirm that the heating and water have been turned off at the property and the stop tap has been turned off and tanks drained.

Where applicable - please provide details of Plumber who attended to turn off stop tap and drain tanks.

.....

.....

.....

.....

Please confirm below details of any mail that you have found at property and whether it is to be taken to the person being supported by ASC/kept at area office/or given to known member of family.

PLEASE NOTE: If person being supported does not have capacity then it must only be given to someone who is known to have legal authority to act on their behalf, area office must have seen proof of Court document)

.....

.....

.....

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.....

ANY FURTHER INFORMATION

APPENDIX A – Protection Inventory Confirmation

ASC PRACTITIONER TO PRINT AND SIGN THAT THE ABOVE DETAILS CONTAINED IN THIS FORM RELATING TO THE PROTECTION OF PROPERTY ARE ACCURATE AT TIME OF VISIT.

PRINT

NAME:.....SIGNATURE:.....DATE:.....

SECOND ASC MEMBER OF STAFF ATTENDING TO PRINT AND SIGN AS WITNESS THAT THE ABOVE DETAILS CONTAINED IN THIS FORM RELATING TO THE PROTECTION OF PROPERTY ARE ACCURATE AT TIME OF VISIT.

PRINT

NAME:.....SIGNATURE:.....DATE:.....

APPENDIX B – Property Deposit Receipt

Date property taken to SERCO for storage

**SIGN & PRINT NAME OF ASC PRACTITIONER who is depositing property with SERCO
COURT OF PROTECTION ADMIN TEAM**

SIGNATURE PRINT NAME.....

SIGN & PRINT NAME OF MEMBER OF COP SERCO ADMIN TEAM who is receiving property

SIGNATURE PRINT NAME.....

**YOU WILL NEED TO TAKE THIS BACK TO SERCO COURT OF PROTECTION TEAM WHEN
PROPERTY IS TO BE COLLECTED AND RETURNED TO PERSON BEING SUPPORTED or THIER
LEGAL REPRESENTATIVE**

LINCOLNSHIRE COUNTY COUNCIL – ADULT SOCIAL CARE (ASC)

PROTECTION OF PROPERTY CHECKLIST

PLEASE USE THE CHECKLIST AS A FINAL CHECK PRIOR TO LEAVING PROPERTY TO HELP ENSURE PROTECTION OF PROPERTY HAS BEEN COMPLETED AND PROPERTY IS SECURED.

TASK	TICK IF COMPLETED	INITIAL OF ASC PRACTITIONER IN ATTENDANCE	INITIAL OF 2 nd STAFF MEMBER IN ATTENDANCE
Completed all elements of Property Inventory Form			
Removal of Valuables into LCC Custody			
Removal of Important Documentation into LCC Custody			
Put out Fires			
Turned off Stop tap/drained tanks			
Made arrangements for any Pets			
Contacted Police to make them aware property un-occupied			
Collected all known sets of Keys to property & vehicles			
Locked Windows & Doors in Outbuildings			
Locked Windows & Doors in main Property prior to leaving			

PART C: Decision

Practice Manager Recommendation:

Agreed

Not Agreed

Comments:

Head of Service Decision:

Agreed

Not Agreed

Decision Reason:

Amount:

Nil Charge:

Part Payment (enter amount to be paid):

Review Date:

Authorisation:

Head of Service:

Date:

PART D: Notification

For SERCO Use Only

Tick when completed

System updated/notification issued:

Date:

Initials:

Business Support notified:

Date:

Initials:

For Business Support Use Only

Letter sent to user

Date:

Initials:

Case File updated:

Date:

Initials:

Referring cases to the Treasury Solicitor (BV)

A guide for local authorities and hospitals.

The Estates Group of TSol's Bona Vacantia Division administers the estates of people who die intestate and without known kin.



The Treasury Solicitor (TSol) deals with the administration of an estate when someone has died without leaving a will, spouse, civil partner or entitled relatives. In these circumstances, their estate becomes *bona vacantia* (ownerless goods) and TSol (BV) will undertake the administration of the estate on behalf of the Crown.

You may have become involved with a deceased person's affairs because: –

- a) the person died at your Hospital, Hospice or Care Home; or
- b) you arranged the person's funeral.

Before you refer a case to TSol

Before you consider reporting an estate to TSol, please ask yourself the following questions: –

1. Did the deceased leave a valid will, and if so, can I contact the executor and beneficiaries?
2. Can I get in touch easily with any blood relatives entitled to the estate?
3. Is the estate insolvent?

If the answer to any of these questions is yes, you should not refer the estate to TSol as there will be someone with a prior entitlement to deal with it: a relative, someone named in the will as executor or beneficiary or a creditor if the estate is insolvent.

The following notes are intended for you to use as a guide when deciding whether to refer any particular case to TSol. The last section gives more details concerning small estates with a net value of £5,000 or under, which are dealt with differently.

Funeral Expenses

TSol does not arrange or give instructions for the funeral. If no one else is prepared to make the arrangements, the local authority has a statutory obligation to do so under Section 46 of the Public Health (Control of Diseases) Act 1984.

Funeral expenses are the first charge of an estate. They have priority over the liabilities and any assets must first be used to pay them.

Sometimes as mentioned above the local authority may in the absence of any other willing person arrange the funeral but at other times friends of the deceased or the hospital or nursing home where the deceased died may wish to take responsibility for this.

In all cases the cost of the funeral should be in accordance with the deceased's status, religion and estate. Generally if there are sufficient funds in the estate a private funeral may be arranged but the cost should be kept within a reasonable amount.

Generally we would expect a reasonable cost of a cremation to be approximately £2,000. In circumstances where the deceased has stated the wish to be buried, we would expect the total funeral cost to be no more than £4,000.

If a sum greatly in excess of the average quoted is spent, and if TSol administers the estate, we will ask for a full explanation and details of the amount spent and may refuse to allow the full amount to be recovered from the estate.

If you are arranging a funeral that is likely to be expensive please contact us for advice before going ahead with the arrangements.

Flowers

Floral tributes are usually regarded as the responsibility of the person ordering them but we will pay a maximum of £50 towards the cost if it seems that the deceased would not otherwise have any flowers.

Memorials or headstones

The cost of a memorial or a headstone is a legal liability of an estate and in the estates we administer we are willing to allow a reasonable sum to be spent on a headstone. However, it is best not to give any instructions to the stonemason until it is known who will administer the estate because, if entitled kin are traced they may take a different view and you could become contractually liable for payment of the account.

When referring a case to TSol, if a headstone is required you may mention this to us so that it can be recorded in the file and dealt with if TSol administers the estate.

Wills/Kin

If a search of the deceased person's home and papers reveals the existence of a valid will or surviving blood relatives, then the matter need not, be referred to TSol.

Do you need to refer the case to TSol?

Firstly, you need to know whether someone other than TSol should deal with a deceased person's estate. If someone has died testate (ie they left a valid will), the Executors can apply for a Grant of Will and Probate or the Residuary Beneficiary can apply for a Grant of Letters of Administration with the will annexed.

1. Is there a Valid Will?

A will is usually accepted as valid by the Probate Registry if it is: –

- (a) signed by the deceased and two witnesses, and
- (b) dated and gives clear indication of the deceased's wishes.

2. Can I contact the Executor or Beneficiaries?

If you have what appears to be a valid will you should write to the executor informing them of the death and asking them to take over the administration of the estate. If you get no reply and someone different is named in the will as beneficiary, you should write to the beneficiary explaining the position and suggest that he or she should approach the Probate Registry in the absence of the executor. Where no executor is named at all you should write directly to the beneficiary.

Where there is a valid will and an entitled relative, the will takes precedence.

This is straightforward where you have the will; but sometimes you might have nothing more than a note in the deceased's case-papers, or an indication found amongst personal papers, that the will is lodged with a particular firm of solicitors or bank. In that case you should write to whoever holds the will asking them to pass on to the executor details of the death. If you hold any assets or have a claim against the estate it would be advisable to ask for the executor's name and address so that you can pursue the matter.

3. What if I cannot contact the Executor or Beneficiaries?

It will not always be possible for you to get in touch with the people named in the will. If the will is old, for instance, they might have moved away from the addresses given or might even have died. People often make a will naming one person as executor and sole beneficiary and then forget to make a new will if that person dies.

In such cases, even though the will may be legally valid, effect cannot be given to the deceased's wishes and for practical purposes you should proceed as if there is no will at all. If the case is eventually referred to TSol, you should send us the will if you have it.

If there is no will, a surviving blood relative may be entitled to share in the estate.

4. Can I get in touch with Entitled Relatives – and how hard should I try?

If you intend to report a death to TSol because you either hold assets or personal property or wish to make a claim against the estate, please first of all make reasonable enquiries to establish that the deceased has not left entitled relatives or a will.

The definition of what constitutes reasonable enquiries will differ from case to case but TSol would expect you to have written to the address of any possible relative found either in your own case-papers or as a result of a brief search of any of the deceased's personal papers to which you have access. One common source of information is a diary/address book (which might contain entries in the deceased's maiden name if she was a married woman).

If you are responsible for arranging the funeral you might have occasion to write to relatives-by-marriage who are not themselves entitled, or to friends; if so, it would be helpful to ask if they have any knowledge of entitled blood relatives. Such enquiries need not be extensive; if you write to a possible relative and get no reply TSol would be responsible for making any further enquiries which might be necessary.

5. Who Is An Entitled Relative?

The deceased's husband, wife or civil partner and then any children would have first claim in the absence of a valid will to the contrary.

After the above, anyone descended from a grandparent of the deceased would be entitled to share in the estate in priority to the Crown. A diagrammatic family tree in which the entitled relatives are shown in block letters and non-entitled relatives in standard letters can be found at the end of this leaflet.

The tree attempts to make clear the distinction between a first cousin once removed (entitled) and a second cousin (not entitled): the two are sometimes confused.

A similar confusion arises with a half-brother and a step-brother (or sister). A half-brother shares a common parent with the deceased (i.e. that parent has married twice and has produced a child of each marriage) and is entitled. A step-brother does not share a common parent with the deceased (i.e. one of the deceased's parent has married someone who already has a child) and is not entitled.

6. What about adopted children or a deceased person who was adopted?

Anyone legally adopted has the same rights as if he or she had been born into their adoptive family. They do not retain any rights of the family into which they were born. Similarly, if a deceased person was adopted then only their adoptive family have these same rights to his or her estate, if there is no will. Legal adoptions have been possible since January 1927.

Important Note

TSol can only administer the estate of someone who has not been survived by any blood relatives with a prior entitlement. We cannot act if:–

1. You trace an entitled relative who is unwilling or unable to deal with the administration of the estate,
- or
2. You trace an entitled relative but subsequently lose contact with that person, or establish that he or she has subsequently died.

Once it has been confirmed that a blood relative entitled to share in the estate has survived the deceased, TSol cannot be involved in the matter. Even if the relatives die, disappear or refuse to act TSol cannot take an interest in the matter. TSol can only suggest that in circumstances such as these you refer to your own legal advisers for advice.

Solvency

1. Is The Estate Insolvent?

The estate is insolvent if the deceased has left more debts than funds to settle them. If this happens any monies must be used for payment of the debts.

The funeral expenses are the first legal charge against any estate and the funeral director (or if his account has been paid by someone else, the person responsible for paying it) has first claim. Only when this account has been dealt with can anyone else including other creditors claim the residue.

This being so, you should not refer insolvent estates to TSol since there will be no residue for us to collect once the creditors have been satisfied, and we will not accept the case.

2. What Is The Value Of The Estate?

Should the estate be only marginally solvent, it may still be uneconomical for TSol to become involved. See the section below concerning Small Estates.

Bona Vacantia – Small Estates

When an estate consists only of a net cash residue of £500 or under, you may retain the money and the case need not be referred to TSol.

When an estate consists of a **cash residue of over £500** but under £5,000 the case should be referred to TSol and the balance of cash may be sent to TSol at the same time.

In all these small cases it is assumed that you are not aware of any entitled relatives and that the deceased died intestate. In all cases we need to have, at the very least, the following information:–

- marital status.
- the actual date and place of death (and, if this a home, or hostel, the date of the deceased's admission and last private address if admission was recent)
- if the deceased died at or had recently occupied a private address we need confirmation that the tenancy has been terminated, that no rent is due and that furniture and effects have been disposed of.

Where personal effects are held in an estate and you do not consider these effects to have any saleable value, they may be disposed of in any way you think fit. If you believe that the personal effects (usually jewellery) may have some value, then please arrange to sell them via a local firm of reputable auctioneers.

In the exceptional instance of an estate with a net cash value of less than £500 but with effects which appear to be saleable, the effects should be sold and if the net estate then exceeds £500, the case should be referred to TSol.

Your Administration Fees

If TSol administers the estate, we would be willing to pay reasonable administrative charges for any work you have carried out in connection with your statutory duties, under s.46 of the Public Health (Control of Diseases) Act 1984. We have agreed a flat rate fee with some authorities. Please contact us if you would like to agree a flat rate fee.

Please do not carry out considerable amounts of work on behalf of the estate without checking with TSol first.

How to refer a case to us

If there is no immediate indication that a deceased person has left a valid will or surviving blood relatives, and if the net value of their estate is above £500, then you should refer the matter to us as soon as possible.

You can refer a case to us using the Information About the Deceased Form (Form BV1A), which you will find on our website www.bonavacantia.gov.uk or you can telephone us for a copy on 020 7210 3116/3117.

When forwarding a completed form BV1A, please send with it – by Recorded Delivery – the following:

- All documents of value such as Title Deeds and Stock/Share certificates (and share dividends/vouchers). These should be itemised;
- All Birth, Marriage and Death certificates, old letters, and diaries/address books;
- Credit/Debit and Store cards - these should be cut in half before you send them;
- Bank and Building Society passbooks or statements, insurance policies & premium receipt books;
- The funeral bill and any other bills.

Cheques

Please don't send cash through the post. Cheques should be made payable to the Treasury Solicitor, and it would be helpful if you could write the case reference and name of the deceased on the back.

Jewellery

Jewellery should be retained in safekeeping until disposal instructions are received from TSol.

Money Laundering

In accordance with good practice, and with the aim of preventing money laundering, TSol (as the Crown's Nominee for dealing with assets that vest in the Crown as bona vacantia) operates in accordance with the principles laid down in Part VII of the Proceeds of Crime Act 2002 ("the Act") and the Money Laundering Regulations 2003 ("the Regulations").

For that reason, TSol makes such enquiries as are deemed necessary to comply with the Act and the Regulations, including obtaining evidence of identity from those with whom we do business and retaining such evidence in accordance with our record-keeping procedure.

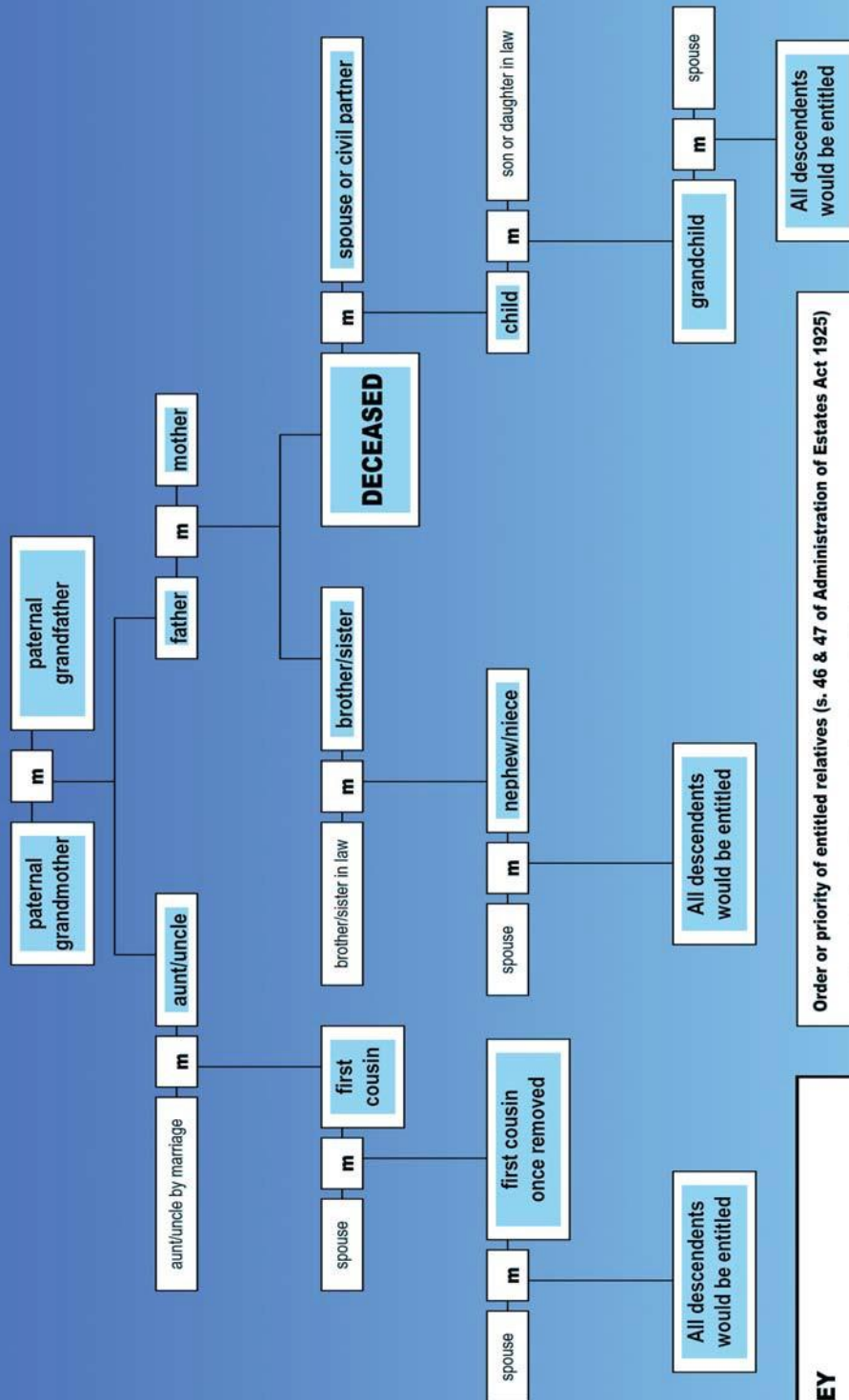
Getting in touch

We hope that the information in this leaflet is helpful. If you need any more information you can visit our website www.bonavacantia.gov.uk or you can contact us at:

TSol (BV)
One Kemble Street
London
WC2B 4TS

Call us: 0207 210 3116 or 3117
Fax us: 0207 210 3104
E-mail us: bvinfo@tsol.gsi.gov.uk

RELATIVES ENTITLED TO SHARE IN AN INTESTATE ESTATE



Order or priority of entitled relatives (s. 46 & 47 of Administration of Estates Act 1925)

- Husband, wife or civil partner (with effect 05.12.2005)
- Issue (children, grandchildren or their descendants)
- Parents
- Brothers and sisters of the whole blood, or their issue
- Brothers and sisters of the half blood, or their issue
- Grandparents
- Uncles and aunts of the whole blood, or their issue (first cousins or their descendants)
- Uncles and aunts of the half blood, or their issue

KEY
Entitled relatives represented in bold and shaded boxes. (Also applies to maternal side of the family).

Relatives not entitled:
Second cousins and any other blood relatives who are **NOT** descended directly from the deceased person's grandparents are **NOT** entitled to share in an estate.