

What happens when a deceased estate is insolvent?

Guidance for families, creditors, executors and advisors

Dealing with the estate of a loved one is never easy, and it can be even more challenging when debts exceed available assets. This guide explains the options, costs and considerations when administering an insolvent estate, and how professional support can help achieve the best possible outcome.

Insolvency Administration Orders (IAOs)

When a deceased person's debts outweigh their assets, creditors may petition the court for an **Insolvency Administration Order (IAO)** under the Administration of Insolvent Estates of Deceased Persons Order 1986 (AIEDPO).

An IAO broadly mirrors bankruptcy proceedings but includes additional provisions for funeral, testamentary and administration expenses.

Statutory costs associated with an IAO include:

- Bankruptcy administration fee: £3,300
- General fee: £7,200
- Trustee's fee: 15% of assets realised

These costs can significantly reduce the funds available for creditors.

Why an IVA isn't an option

While an insolvent individual can propose an Individual Voluntary Arrangement (IVA) during their lifetime, IVAs cannot be used for deceased estates.

A cost effective alternative: article 4 administration

Article 4 of the AIEDPO allows an insolvent estate to be administered **without** an IAO. The estate must still be handled in line with bankruptcy procedures, but crucially, **statutory fees do not apply**.

Instead:

- Costs are agreed directly with the executor
- Fees are typically lower than those payable in an IAO
- More funds can be returned to creditors
- Process can commence as soon as probate is obtained

Although Article 4 does not legally require a Licensed Insolvency Practitioner, the process demands specialist knowledge of insolvency law. Engaging an expert ensures compliance and protects the interests of all parties.

Joint property considerations

If the deceased previously owned property as a joint tenant, their interest passes automatically to the surviving joint tenant(s). In some cases, a trustee appointed under an IAO may apply to court for an order requiring the survivor to pay an amount representing the value lost to the estate.

To avoid costly litigation, surviving joint tenants may wish to **contribute voluntarily** as part of an Article 4 administration, helping reach an efficient and fair resolution.

If you are a creditor of a deceased estate where you believe value to the estate has been lost, we have experience of acting as Trustee and applying to court pursuant to Section 421A of the Insolvency Act 1986.



Company Directors and Shareholders

If the deceased was a director or shareholder, specialist insolvency expertise is essential. We have extensive experience handling these situations and can guide you through the necessary steps for both the estate and any company interests.

Case Study

Mr X, a man in his mid 30s, passed away without leaving a will. His estate comprised several liabilities arising from a previous business failure, along with personal family debts. The estate included a freehold property in the deceased's sole name, subject to a secured loan connected to the failed business.

Once letters of administration were granted, the widow engaged us to administer the estate under Article 4. Following on this we:

- Contacted creditors to prevent further direct correspondence to the widow
- Managed the sale of the property, liaising with agents, insurers and lawyers
- Adjudicated creditor claims
- Paid the outstanding funeral, testamentary and administration costs
- Distributed a first and final dividend from a designated client estate account

Because Article 4 avoids statutory IAO fees, creditors received a **higher return** than they would have under a formal Insolvency Administration Order.

FAQ

Q - Are the executors or beneficiaries personally liable?

A - Not unless they are jointly liable for the debt or provided a personal guarantee.

Q - Do all creditors need to agree?

A - No creditor agreement is required. However, if dissatisfied with the actions the creditors could pursue an IAO.

Next steps

If you are dealing with an insolvent estate, or think one may be insolvent, we can help.

Contact us for a **free, confidential and without obligation** discussion about the options available.

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