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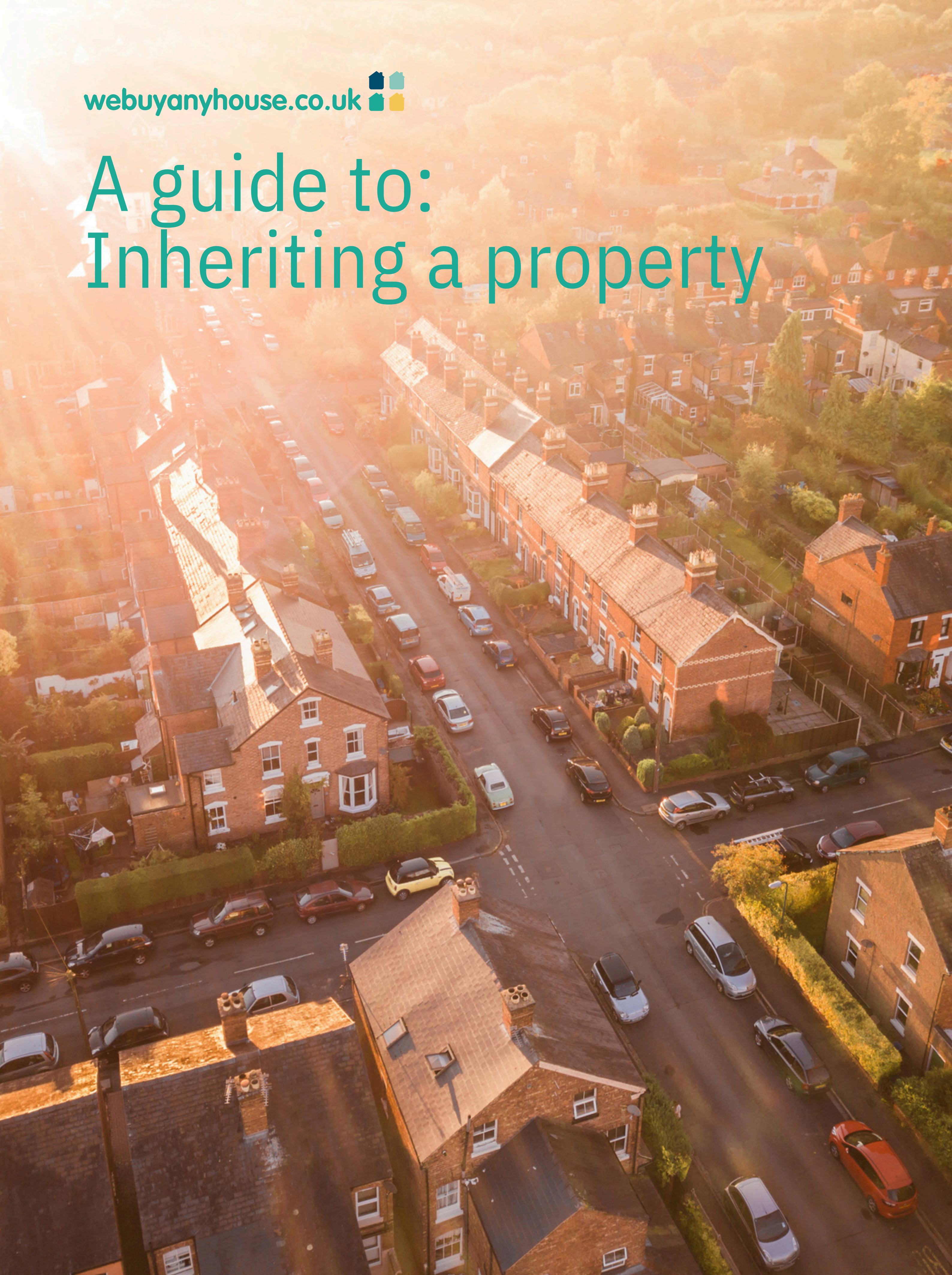
A guide to: Inheriting a property



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What does it mean to inherit a property?

Sometimes when somebody close to you passes away, they may leave you something in their will. This could mean that you inherit a property, and suddenly **you will become a home owner**. When this happens you will have a few important decisions to make in regards to your inherited property.

This **guide to inheriting a property** will help you understand what this actually means, what happens next, and what your long term options are.

I've inherited a house. What are my options?

Upon inheriting a house you may be struck with an array of confusing and conflicting thoughts concerning what to do with it. The decision requires planning, thorough consideration of available options and the confidence that your final decision will benefit all whom it affects.

Options to consider:

- Selling the house:

If you've inherited a property, selling the house could be a great option if you don't want to keep it and see any proceeds, no matter how small, as a bonus.

- Renting the house out:

Alternatively, you might prefer to keep the property and instead rent it out to tenants and make a small monthly profit, until you're ready to sell.

- Refusing the house:

If you decide that you really don't want to inherit any kind of property, there may be an option to refuse it and not become the owner of the property as requested in the will.

- Moving into the house:

Lastly, it might make more sense to move into the inherited property yourself if you don't currently own your own house.

What happens when you inherit a house with a mortgage?

When inheriting a property, you may find that there is still a mortgage attached to it. Unfortunately, the debts of the deceased still need to be paid and this means that the responsibility of **the mortgage can fall upon the beneficiary**. With money still owed, the lender has the right to demand the full amount to be repaid and this can lead to a variety of different ways to paying the remaining amount.

The estate pays the remaining balance

When someone passes, their estate is totaled up and before it is given to the beneficiaries named in the inheritance, it is used to pay any debts that the deceased may have had. This means that the mortgage could be covered by the estate and the beneficiary of the property won't have to worry about making repayments.

However, for this to happen, it needs to be explicitly mentioned in the will that **the mortgage should be paid on behalf of the beneficiary**.

The property covers the remaining mortgage

If not already stated as being paid for by the estate, **the responsibility to repay the mortgage falls upon the beneficiary**. When this happens, it will be determined if you are able to continue to make the payments, but it's not always possible to add a mortgage to your budget.

If it is not written into the will that the assets should be used to pay the remaining mortgage and you're unable to take on the debt, then the property can be sold to cover the costs. In this scenario, the beneficiary sells the house and whatever outstanding payments were owed on the mortgage can be finalised with the sale proceeds.

You pay the mortgage

Once a property is inherited, the responsibility of all payments from household bills to the mortgage fall to the beneficiary. If the mortgage is not covered in the will, you can decide to take the repayments on yourself.

There are a variety of ways this can be done, if the deceased had a life insurance policy and you received a settlement, then it may be a way to pay the mortgage entirely. Alternatively, you can add the remaining payments to your monthly outgoings until the remaining amount is paid.

What happens when you inherit a house with a mortgage?

Letting the property

If you decide to take on the mortgage payments, then **the house is officially yours and this may lead to you choosing to rent it to help bolster your income**. If this is the case, then a new buy-to-let mortgage will have to be arranged and any profits you make from tenants will have to be declared for tax purposes.

The property has a joint mortgage

Taking out a joint mortgage with someone means that you both own a part of the property**.** However, with a variety of different options available, there can be different outcomes upon a passing:

- If the property was owned under joint tenancy then the other member of the joint mortgage will inherit the entire house. This means that **any debts on the property including the full mortgage is now their responsibility**
- If there is a tenancy in common agreement, then **the share of the property held by the deceased will go to whoever they name in their will**. This means that while it could transfer the ownership of the property to the common tenant, it could also go to someone else or be used to pay any debts
- Finally, if there is no will, then **the beneficiary of the property share will be decided** through a legal process
- When someone passes, it is typically those closest who have to do the most work and in this scenario, the idea of adding a mortgage to your monthly outgoings can be stressful. However, while lenders can demand the payment right away, **they are typically sympathetic and will help you through the process to find the best result for everyone**.

Am I still a first-time buyer if I inherit a property?

With new schemes such as the Help to Buy ISA and easier access to mortgages with smaller deposits, the government and banks are trying to help create a favourable market for first-time buyers who have been dubbed **"Generation Rent"**.

Many around the UK rely on these preferential rates to become homeowners and it's important to understand how inheriting a property can affect someone's status if they decide to apply for a first-time buyer scheme.

While inheriting a property may seem like an opportunity to take a step onto the property ladder with a new home, it's not always feasible to keep the property. Whether you want your first home to be in a different area of the country, or you have to sell the property due to an agreement made between the properties various beneficiaries, there are many reasons why you may opt to sell this home.

Typically, when someone applies for a first-time buyer scheme with a bank, one of the first questions they are asked is if they have ever owned a property. While a beneficiary may believe they have not owned their own home before, the moment the deeds to their inheritance was given to them, they legally became a property owner.

One way this may not apply to a beneficiary, is if the estate sold the property. In this scenario, they do not inherit any property, only the money they are due from the sale. While a beneficiary may no longer be applicable to the benefits presented to first-time buyers, their inheritance does provide them with some new avenues to buying their own home, even if they do not want to move into the currently owned property.

Can I rent out my inherited house?

You may be considering renting out your inherited house, but wondering where to begin. What legality is involved? What are your responsibilities? What are the benefits and disadvantages? How much should you charge for rent? What taxes should you be aware of? Is there anything else you should know?

We'll consider these questions to enable you to make an informed decision.

1 The mortgage

Legally owning the home means you may have taken on, or decided to take out, a mortgage. When taking on the mortgage it's important monthly payments are met, otherwise repossession will occur. You might take out a mortgage to refinance or maintain the home, with buy-to-lets being the most common in terms of renting.

A mortgage lender will consider how much rent you intend to charge, how big a deposit you have and if you could afford the mortgage if the home was empty for a certain period of time. As Money Advice Service state, 'the rent should normally be at least a quarter higher than your monthly mortgage' and, 'the minimum deposit is generally at least 25% of the property's value'. As there are various types of buy-to-lets, such as fixed rate and tracker rate, talking to a mortgage broker or advisor can help you pick a mortgage suitable for your situation. It's important to note that if the home already has a mortgage you must inform your mortgage lender about your renting intentions, otherwise you are breaking the conditions of your mortgage contract. You may need a 'consent for lease' from them too.

2 What next?

After you've sorted out the mortgage, as Money Advice Service claim, you'll need to 'get your property ready'. This includes carrying out repairs, ensuring appliances work and redecoration where required. You can then use a lettings agent to help you advertise the home, show potential tenants around and draw up the tenancy agreement among other things.

Alternatively, with the help of a solicitor, you can do this yourself. Landlord insurance can be of great benefit as it includes buildings and contents insurance (e.g. flooding, fire, theft and burst pipes), loss of rent and home emergency cover (e.g. boiler breakage). Though cost depends on the property size, location and type of tenants (e.g. student or pet owner) it is certainly a worthwhile investment. For more information on landlord

3 How much should I charge for rent?

Researching similar houses in your area on websites such as Zoopla.co.uk, rightmove.co.uk and the Land Registry is a good place to start. Talking to an estate agent or local ARLA letting agent is also advisable. Online calculators can also help, such as thehouseshop.com and Accord.

Can I rent out my inherited house?

What taxes should I be aware of?

Income Tax

As you'll be making an income from the rent, you'll be subject to income tax. To work this out:

- Add together all your taxable income from renting out the house
- Check whether you can claim any tax relief and subtract from your total income
- Discover your tax allowances, including your Personal Allowance
- Work out the difference between the above figures

This will give you a rough idea of how much you'll need to pay. You can find more detailed information concerning income tax from citizens advice and GOV.UK, it is also worth speaking to an accountant. If your annual profits from renting exceed £5,965, being a landlord is (or becomes) your main job and if you rent out more than one property, you may also have to pay National Insurance.

Becoming a landlord

What are your responsibilities as a landlord?

When it comes to your responsibilities, it's fair to say there are quite a few. Both GOV.UK and nidirect provide comprehensive lists. Below are a selection of the most important factors:

- Ensuring all gas and electrical equipment is installed and maintained safely
- Fit and test smoke and carbon monoxide alarms
- Property repairs – including heating and hot water systems
- Providing emergency repairs for things such as burst pipes and broken boilers
- Protecting your tenant's deposit in a government-approved scheme
- Insure the property in case of flood or fire

You'll also need to provide your tenants with an energy performance certificate, check they have the right to rent property in England/UK and give them the 'How to rent' checklist when they move in. This outlines what the tenant and landlord are responsible for and what to do if issues occur, for example.

What are the benefits and disadvantages of being a landlord?

Before making the decision of becoming a landlord, you need to research the pros and cons of being a landlord to see if it would work for you. Below are a few things to consider:

- It allows you to keep the house
- You get tax deductions on expenses such as gardening, cleaning and replacing water pipes
- Potentially higher tax and mortgage charges
- Responsibility for all repairs

A point to remember

As a landlord you'll have continuous maintenance costs to keep up with, as even the most cautious tenants will create some wear and tear. It's important to have some money set aside for this as legally, you may be taken to court if repairs aren't fixed. This part has covered a lot of information regarding renting, hopefully making your decision to rent out your inherited house clear.

Do you have to pay stamp duty on an inherited property?

The Might Be Giants famously sang, 'yes, no, maybe. I don't know. Can you repeat the question?' The truth is, there are various taxes and situations which mean in some cases, the answer to the title questions will be 'yes' and in others 'no' and 'maybe'. We will go through both the taxes and situations, aiming for clarification.

Inheritance Tax

This is a tax on the property and money of the deceased.

There is usually no inheritance tax to pay if:

- The value of the house is below £325,000
- If you leave everything above the £325,000 threshold to your spouse or civil partner

If you give away your home to your children (including adopted, foster or stepchildren) or grandchildren the threshold can increase to £500,000.

- The house is left to an 'exempt beneficiary' (e.g. charity)

If the house's value is above the inheritance tax threshold, then the amount above the threshold will be subject to a 40% tax rate. For example, if the house is worth £550,000 and your threshold is £500,000, then the tax charged will be £16,000 (£550,000 - £500,000 = £50,000 @ 40% = £16,000).

If there is inheritance tax to pay:

The executor of the will (if there is one) usually pays the tax. Otherwise, the estate administrator does so. It's usually paid from the sale of assets (e.g. the property) or from estate funds. The deceased may also have left money to cover it. If not, then it is up to you. HMRC will contact you if tax is due.

This tax should be paid within 6 months of the deceased's death. If not, HMRC may charge interest. You can opt to pay the tax over a certain number of years, but this too may be subject to interest. If you're thinking of selling the house, all inheritance tax must be paid off beforehand.

What if the home was left as a gift?

If you received the house as a gift at some point in the seven years before the person died then the threshold rules still apply. Any house valued above the threshold is subject to potential inheritance tax in the form of the 7 year rule. This states a connection between the number of years between the house being gifted, the death and the tax due. For example, if there are 0-3 years between the two former variables, then there is a 40% tax rate, whereas 7+ years incurs no tax. Discover more on gifting and the 7 year rule here.

Capital Gains Tax

We go into great detail about CGT in our previous post, 'Wanting to Sell an Inherited House: What is the Capital Gains Tax?' but briefly, if you decide to sell an inherited house that has increased in value from the time of death to the time of sale, then CGT is a tax on the profit you make from the sale. You get an Annual Exempt Amount of £12,300 but profit above this will be taxed, dependent on the gain, the losses and whether you are a higher or basic rate taxpayer. The aforementioned post is worth a read as it tells you what to do should you have CGT to pay.

Are there ways I can reduce the amount of tax I will have to pay?

Usually, no. However, if the deceased took out a life insurance policy which is 'held in trust' you may be able to avoid inheritance tax altogether. The policy pays out to the trust upon their death and the money is used to pay for some or all of your inheritance tax. You'll need to fill in the Schedule IHT410 form upon their death if they had a policy.

If you were given the house as a gift from a family member still living, it could be worthwhile speaking to them about taking out a policy as it could benefit you in the long run.

The, 'Using life insurance to pay Inheritance Tax' section from the Money Advice Service's, 'A guide to Inheritance Tax' provides greater detail and further links for useful policy information.

They say two things in life are certain: death and taxes. Though uncertainty can sometimes lie in knowing which death-related taxes to pay, we hope this has made things clearer.

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How do I transfer ownership of an inherited property?

A home, whether inherited or not can be the source of both happy and sentimental memories.

If your parents or guardians pass away and leave you the house, you may decide to keep it to create your own new memories in. Or you may feel that transferring ownership of the property is a wiser option. **Here we'll explore how you can transfer the ownership of a property to someone else.**

Before you can transfer ownership of an inherited property, you must obtain ownership of the house yourself. This involves various legal processes.

Obtaining ownership of the property

Completing a probate application form: The form can be accessed here. **The Probate also allows you to transfer or sell the property afterwards.**

Completing an Inheritance Tax form: The form you fill in depends on the house's value and your relation to the deceased:

- IHT205 if the house's value is less than £325,000 and left to a spouse or civil partner (or £500,000 if the house is left to children or grandchildren).
- IHT400 if the above does not apply to your situation.

Sending your application: To the Probate Registry and must include various information, such as an official copy of the deceased's death certificate.

Swearing an oath: The promise that all the information you have given is true.
After this, you can start the transferral process.

The transferral process

Fill in the AP1. This is an application to change the home owner on the register.

Fill in the TR1. This form allows you to transfer a registered property. If you are unsure if the house is registered, you can check its status here.*

You then need to fill in the ID1. This proves your identity when registering an application with the Land Registry. This form must be signed by a solicitor or licensed conveyance.

Ensure you pay the right fee from the Fee calculator.

Send the above to the Land Registry.
Home ownership will then be transferred within 5-6 weeks.

If you discover your house is not registered, you must follow the following steps to register it.

Registering a property

Fill in the FR1, the application for first registration.

If not already within the deeds, create a scale plan detailing where the land is. Table 1 from GOV.UK's, 'Guidance for preparing plans for Land Registry applications' can aid you with the measurements needed.

Then depending on how you inherited the property, fill in either the AS1 or the TR1. You fill in the AS1 ('whole of registered title assent' form) if the house belonged to a sole owner and it's been left to you in a will. You complete the TR1 ('transfer of whole of registered title' form) if you jointly owned the home with the deceased.

Dependent on the value of your property, find the correct registration fee.

Send the above to the Land Registry.

Things to consider:

The effect on the mortgage:
You will need to speak to your mortgage lender before transferring ownership. If the new owners will be using the same lenders, then the mortgage may just carry over, though this varies depending on circumstance. There will likely be administration and valuation costs to cover.

Do you still want to live in the house?
Even after the transfer, you may want to continue living there, for example, if you were giving your child the house as an early inheritance gift. You could get a, 'lease of life' – allowing you to stay in the property for the rest of your life. However, if your child decided they wanted to sell the house beforehand they would be able to do so, regardless of the lease.

Alternatively, if you pay them rent, the transferee may allow you to continue living there.

Tax:
If you transfer the house, move out and live for another 7 years, there's usually no inheritance tax to pay. If you die within 7 years, the home will be treated as a gift and is exempt from tax so long as its value is less than £325,000. If the house is worth more, your tax can range from 8-40% depending on the years between gift and death. See here for more detail.

Capital Gains Tax applies when the transferred property is not the transferees' only residency. For example, if your relative is not living in the home when you transfer it to them and it increases in value when they decide to sell it. There is an annual capital gains tax allowance of £12,300. For any increase above this:

- The gain is taxed at 18% for basic-rate taxpayers.

- The gain is taxed at 24% for higher-rate taxpayers.

The transferee may need to pay stamp duty land tax if there is a mortgage attached to the house. The rate varies dependent on the house's purchase price, from 0-15%. See here for the latest rates.

Other Risks:
- If you transfer your house to a relative who gets divorced, they may have to sell it as part of the settlement.

- If the transferee is declared bankrupt, the house could be claimed by the bank or lender.

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