HMRC - IHTM02032 - Confidentiality And Disclosure Of Information: The General Rule On Disclosure And Its Operation: Who Is Entitled To Disclosure?

Where this guidance advises you to send a case to Litigation you should speak to your manager before doing so.

Accountable persons and personal representatives

Generally you may disclose information to the personal representatives (IHTM05012) or other accountable persons (IHTM10801) who delivered the account.

If several people are acting you may disclose information to one of them. But you should be careful if a corrective account is delivered and not all the personal representatives have signed it. Any requests for information that is in the account that come from a pr who has not signed the account should be referred to Litigation.

You may act upon the authority of one of several personal representatives to disclose information directly to a third party.

If one of the personal representatives (prs) who delivered the account has died you may only disclose information to or with the consent of the surviving prs.

Except in Scotland, if all the prs have died, the right to disclosure passes to the executors or administrators of the last of the prs to die, by the chain of representation (IHTM05114).

In Scotland, there is no automatic chain of representation. Where a confirmation (IHTM05104) becomes inoperative because all the prs have died, confirmation ad non executa (IHTM05095) must be obtained by those who want to complete the administration of the estate. Only those people who are granted confirmation are entitled to disclosure.

Note: Personal representatives (prs) mean executors/administrators whose authority has been confirmed by a grant (IHTM05001) - it does not include trustees appointed in other ways.

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Enquiry about regarding lifetime transfers

If you receive an enquiry from someone who is applying for a grant asking for details of lifetime transfers (IHTM14001) so they can complete a death account, you should refer the matter immediately to Litigation.

(This content has been withheld because of exemptions in the Freedom of Information Act 2000)

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Trustees

You may disclose information to trustees who delivered the account.

You should ask the other trustees who do not qualify under the rules already mentioned to get the written authority of one of the people who is entitled before you can disclose any information to them. Producing the deed by which they were appointed is not enough.

But, if the parties state the information is essential for administration of the trust, and

that they have tried without success to obtain consent, or

the trustees did not deliver the account but have become liable for some part of the tax payable in respect of the transfer

and they request disclosure without consent you should refer the case to Litigation.

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Transferors

A transferor who delivers an account is entitled to disclosure of its contents.

On the transferor’s death the right to disclosure passes to their personal representatives, but only after they have taken out the grant.

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Liable Persons

If liable persons who are not entitled under the rules already mentioned ask you to disclose the contents of an account you should ask them to try to get:

the information directly from the people who are entitled to disclosure, or

the written authority of one of them

If the applicants cannot get the information they want or the written authority, and if it would be in the office’s interest to disclose, for example to pursue a claim for tax, you should refer the case to Litigation Team.

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Administrator de bonis non or Executor ad non executa

An administrator de bonis non (IHTM05102) or executor ad non executa in Scotland (IHTM05095) is entitled to disclosure, but only after they have been given the grant.

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Executors applying for double probate

You may only disclose information or supply copies of accounts to executors applying for double probate (IHTM05103) if they have the written authority of one of the people entitled to disclosure.

You should refer the case to Litigation if the parties say that they have tried but cannot get the consents required.

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Agents

You may supply information to:

solicitors or other agents currently acting on behalf of people who are entitled according to these instructions

law agents who are acting on behalf of solicitors who would themselves be entitled

If agents who are not currently acting ask for information you should ask them for the written authority of one of the people who is entitled according to these instructions. If the agents are unable to supply this authority you should ask them

who they are acting for

why they need the information

You should refer the replies to Litigation.

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MPs

You may disclose information to an MP who is acting for a constituent, but only if the constituent is entitled to the information according to the general rule of disclosure (IHTM02031).

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Difficult cases

You should refer the following cases to Litigation team for advice, without delay:

any case where refusing to disclose information causes difficulties or where you think it is likely to cause them.

any case where you are unsure what to do

You should make these referrals through your manager

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