

Islamic ceremony of marriage not recognised as a valid marriage under English law



The Court of Appeal judgment handed down a few days ago in the case of *Attorney General v Akhter*, determined that an Islamic ceremony of marriage, which did not conform with certain formalities, did not create a valid marriage under English law.

Whether a marriage is considered valid under English law has consequences both on separation and death. When someone dies for example, their estate will pass in accordance with the terms of their will or, if they do not have a valid will, under the rules of intestacy. Any gift to a spouse under a will or intestacy is free from inheritance tax due to the spousal exemption. Gifts to someone other than a spouse (including a long term partner) above the nil-rate band tax free allowance (currently £325,000) are usually taxable at 40%. Therefore, there can be significant tax consequences if the marriage is not deemed valid.

Under the rules of intestacy, a surviving spouse will receive the deceased's chattels, a legacy of £270,000 (if the death was after 6 February 2020) and half of the residuary estate. If the marriage was not recognised under English law and the deceased died without a will, a surviving partner may not be entitled to anything under the rules of intestacy. That being said, they could try to recover something from the estate by claiming under the Inheritance (Provision for Family and Dependents) Act 1975.

Following someone's death, personal representatives should ensure that they take steps to:

- Establish whether the deceased's marriage was recognised under English law; and
- Distribute the deceased's estate correctly in accordance with the will or under the rules of intestacy.



If you have concerns as to how your estate will pass following your death, concerns as to how to administer an estate or if you believe that an estate has not been distributed correctly, please get in touch with our specialist [inheritance disputes team](#).



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Partner