Flowchart 3: The ARR and the English Rules of Intestacy

Diagram 1
Refer to the diagrams below if the artist was domiciled in the UK at the time of his/her death and the artist did not leave a Will.

Q.1 Does the artist have a wife, husband or civil partner (“spouse”) who survives the artist? [See Note 1]

- **YES**
  - Go to Diagram 2

- **NO**

Q.2 Does the artist’s net estate (excluding personal chattels but including the ARR) exceed £125,000 (where the artist died before 01/02/09) or £250,000 (where the artist died on or after 01/02/09)? (Ask the Personal Representatives).

- **YES**
  - ARR passes to surviving spouse

- **NO**

Q.3 Is the artist survived by any of his/her children as well? [See Note 2]

- **YES**

  ARR part of residuary estate. Spouse receives a life interest in half the ARR (i.e. half the royalties from ARR during his/her life). Other half passes equally to the artist’s children. On spouse’s death their share of the ARR passes to the children.

- **NO**

Q.4 Does the artist’s net estate (excluding personal chattels but including the ARR) exceed £200,000 (where the artist died before 01/02/09) or £450,000 (where the artist died on or after 01/02/09)? (Ask the Personal Representatives).

- **YES**

  ARR passes to surviving spouse.

- **NO**

Q.5 Is the artist survived by parents – or if not – by siblings of the whole blood (i.e. who share the same parents as the artist)? [See Note 3]

- **YES**

  ARR passes to surviving spouse.

- **NO**

ARR part of residuary estate. Spouse entitled to half the ARR. Other half passes to the artist’s parents (in equal shares if they both survive), or if none, to the artist’s siblings of the whole blood in equal shares. The spouse and parents (or siblings) share the royalties from ARR. [See also Note 3]

Please note that this flowchart should be read in conjunction with the attached DACS fact sheet ‘Protecting copyright and ARR after death’. This flowchart has been reproduced for DACS by Farrer & Co LLP. This flowchart is provided for guidance only and is based on the law as it stands in January 2012. You are advised to seek specific and specialist advice in relation to your own specific circumstances.
Notes to accompany Flowcharts 4 & 5

Note 1
Only legally married spouses and registered civil partners qualify. Co-habitees and so-called “common law spouses” do not.

Note 2
“Children” includes adopted, legitimated and illegitimate children (the latter only if the death occurred on or after 4 April 1988). Note also that if any children have died before the artist, their children (i.e. the artist’s grandchildren) will take their share.

Note 3
If any siblings have died before the artist their children (i.e. the artist’s nephews and nieces) will take their share.

Note 4
If any uncles and aunts die before the artist, their children (i.e. the artist’s first cousins) will take their share.