

Mackrell

Wills, Trusts & Probate

The Legal Necessities the follow the Death of a Loved One



Immediate response

Unfortunately, if you lose a loved one you will be expected to fulfil a number of tasks almost immediately. Within a few days after a death, someone needs to:

- Make sure that the home and possessions of the person who has died are secure.
- Register the death.
- Start arranging the funeral.

In this document you will find guidance on these matters and we will address the common questions that people often ask after a death, such as:

- Where can we get money to pay for the funeral?
- Can I still use the joint account I had with the person who has died?
- How can we pay bills without access to the person's bank account?
- What happens if the death is reported to the coroner?
- Who should we tell about the death?
- What happens if there is no Will?
- Do we need a solicitor?
- What should we look for when going through the papers of the person who has died?

Responsibilities

In most cases, the family and friends of the person who has died are usually able to deal with most of the practical things that need doing immediately after a death. It is normally a solicitor's role to become involved when the personal representatives (PR) ask for their advice about the estate.

A personal representative or legal personal representative is a person usually appointed by a court to administer the estate of another person, such as an executor.

If there is no family member or friend to deal with the practical matters, then we can help with some or all of these too, as and when required.

Security and insurance of property

If the person who has died lived alone, someone on the deceased's behalf should go to his/her home on the day of the death. They should take the normal security precautions taken when leaving a home empty for a while, including:

- Locking all doors and windows.
- Stopping deliveries.
- Turning off electrical devices and heating.
- Moving valuable items so that passers-by cannot easily see them.

Everything that is in the home of the person who has died should not be removed unless it is an emergency.

Ensuring everything remains in place will make it easier to arrange for all the person's property to be valued for Inheritance Tax purposes. If there are very valuable items and you believe they are not adequately insured, consider moving them to a more secure place but please ensure you consult your co-executors or the family of the person who has died before you do so.

If you know that the person who has died had a gun licence and kept firearms at the property, report the death to the police so that they can make arrangements for the guns to be kept safely. The British Association for Shooting and Conservation has guidance on dealing with firearms when someone dies.

If the person had a pet, try to make temporary arrangements for it to be looked after by family or friends or through an animal rescue charity if no one is able to care for the animal.

Insurance

Try and look for any papers relating to the insurance of the property and its contents. It is important that you contact insurers to tell them about the death and make sure that there is adequate home and contents cover in place. Make sure you keep a record of this conversation and put it with the papers relating to the insurance. These papers should be handed over to the executors or their solicitors as soon as possible.

Registering a death

When a person dies a doctor will be required to issue a medical certificate that states the cause of death. In some cases, where a death is sudden, it may be necessary to conduct an inquest into the death before cause of death is given.

Using this certificate, you can then formally record a person's death on the register for births, deaths and marriages. A death should normally be registered within five days after the date of the death, unless an inquest is required.

If the death was in hospital or in a private home (including a nursing or residential home), the following people can register the death:

- A relative.
- Someone who was present at the death but who is not a relative.
- Someone representing the 'occupier' of the building where the death occurred (for example, the warden of a block of sheltered flats, the manager of a residential home).
- An official from the hospital.
- Anyone who has taken responsibility for arranging the funeral.

If the death was not in a public building or a private home, the following people can register it:

- A relative.
- Anyone present at the death.
- Anyone who has taken responsibility for arranging the funeral.

A relative should register the death but the registrar allows non-relatives if no relative is available.

Register office

All deaths must be registered at the Register Office for Births, Deaths, Marriages and Civil Partnerships for the district where the person died. If you do not know where this is, please contact your local authority or visit the GOV.UK website to find your local office.

You will be required to contact the register office first to find out if it has an appointment system, most of them do. Whoever registers the death should take to the register office:

- The medical certificate from the doctor.
- The following information:
 - Date of death;
 - Place of death;
 - Full name of the person who has died;
 - Any former names;
 - Occupation;
 - Last address;
 - Name, date of birth and occupation of the person's spouse (including a same-sex spouse for marriages on or after 13 March 2014) or civil partner (whether living or dead); and
 - Information about any state benefits the person was receiving.

If you do not know all the details about the person who has died that you need for the registrar, you should be able to find them in his or her birth certificate, marriage or civil partnership certificate and state pension or allowance book.

Death certificates

The registrar will issue an official copy of the register, called a certified copy death certificate, after the person registering the death signs the register.

Your solicitor will need several copy certificates to send out when giving notice of the death to banks, insurance companies and so on.

You are able to obtain as many certified copy death certificates as you require. However, you will have to pay for them – please be aware that the price varies from one local authority to another. You can claim back the cost from the estate in due course.

You can estimate how many to buy if you know roughly what the person who has died owned. For example, if the person had three bank accounts with three different banks and two shareholdings with different companies, it is best to have five copy certificates, one for each separate institution.

You will also need a copy for the person's pension provider and it is sensible to get one or two spare copies while you are at the register office, since it is less convenient to order additional copies later.

The registrar will also issue a certificate for burial or cremation, which should be given to the funeral director who is making the funeral arrangements.

Social security benefits

The registrar will give you a form (form BD8) to complete, which informs the DWP Bereavement Service of the death so that it can deal with the pensions and benefits arrangements of the person who has died.

You can complete this form yourself or ask us to complete it and send it to the DWP. Alternatively, you can call the DWP Bereavement Service to inform them.

If your local council offers the DWP's 'Tell us once' service, you can use that to deal with the deceased's pension and benefit.

'Tell us once' service

A number of local councils offer the DWP's 'Tell us once' service, which is a way of letting a number of government departments know that someone has died by just making one contact to reduce the administrative burden on families.

If this is available in your area, the registrar will either use the service for you or give you a unique service reference number so that you can use the service over the telephone or online.

The service can be used to contact the government departments that deal with the deceased person's benefits, state pension, tax, passport and driving licence.

The coroner and inquests

Unexpected deaths are reported to the coroner, sometimes by the police but usually by the doctor who was called when the person died.

A death is regarded as unexpected in any of the following circumstances:

- The person who has died was not seen by a doctor in the 14 days before death or during final illness.
- The doctor does not know the cause of death and so cannot issue a medical certificate.
- The person died within 24 hours of being admitted to hospital or during an operation.
- The medical certificate suggests that the cause of death was due to industrial disease or industrial poisoning.

When a death is reported to the coroner, the coroner usually arranges for a post mortem. This normally establishes the cause of death.

If the death is from natural causes, it can be registered and the funeral can go ahead. There is an inquest only if the cause of death is in doubt, even after the post mortem, or the post mortem shows that death was not from natural causes.

If the death is reported to the coroner and the coroner is satisfied that the death is natural, then the coroner notifies the registrar and the death is registered in the usual way.

However, if the coroner decides that an inquest is necessary, the registrar cannot issue a death certificate or a certificate for cremation.

Even if there is to be an inquest, the coroner usually allows the funeral to be held after the post mortem.

Last Will and Testament

It is not essential to find the Will before the funeral. However, it is best to find it, or at least a copy, as soon as possible because the person who has died may have said in the Will what kind of funeral he or she wanted.

Most people keep a copy of their Will with their important papers. The original is usually kept by the solicitor who prepared the Will. If you cannot find a Will or a copy in the home of the person who has died, ask the person's bank and his or her solicitors if they know where it is.

You can also:

- Conduct a Certainty Will Search which is used by a number of law firms to register Wills and access Certainty's Will-finding services.
- Check whether the person who has died left their Will with the Principal Registry of the Family Division. You can make the search for the Will either by contacting it or a district registry in another area close to you or searching for a Will online. The general term used for either the Principal Registry or a district registry is the Probate Registry.
- Place advertisements in the Law Society's Gazette asking for information about a Will that the person who died might have made.

Otherwise, you can contact any solicitor whose practice includes Wills and probate. The solicitor can help with the searches for the Will and can also explain what happens to the property of an individual who dies without leaving a Will.

When this happens, administrators are appointed. They are usually close relatives of the person who has died and they have authority to deal with the estate in much the same way as executors.

Viewing a Will

Only the executors appointed in a Will are entitled to see the Will before probate is granted. If you are not an executor, the solicitors of the person who has died or the person's bank, if it has the Will, cannot allow you to see it or send you a copy of it, unless the executors agree.

However, they can tell you who the executors are. They can also let you know what the Will, or a note kept with it, says about the kind of funeral the person wanted.

Funeral arrangements

Many people leave notes saying what kind of funeral they would like, or they express their wishes in their Will. You are not legally obliged to follow the wishes of a person who has died but usually relatives and friends prefer to do so.

It can be distressing to discover after the funeral that it was not arranged as the person wished, so look as soon as possible for a note and for the Will.

When you have confirmed that the body is to be buried or cremated rather than given for medical research, give the certificate for burial or cremation to the funeral director. The funeral director will discuss all the arrangements and guide you through the process leading up to the funeral and the burial or cremation.

Paying for the funeral

By taking on the responsibility for arranging the funeral, you also taking on the responsibility of paying for it. You will eventually be able to reimburse yourself from the deceased's estate, if there is enough money in the estate to cover the funeral expenses. However, you should contact the deceased's bank. You, or other family members, may be willing to pay the funeral expenses, on the basis that you will claim repayment from the estate later. However, there are other ways of paying for the funeral:

- Look through the papers of the person who has died for anything relating to a pre-paid funeral plan. If you find that the person subscribed to a plan, contact the provider and follow the procedure it recommends.
- A bank where the person who has died had an account may be prepared to release money from the account. The bank 'freezes' an account when it learns about the account-holder's death, making no further payments out. However, it will usually make an exception for funeral expenses. Contact the bank to ask whether it will release money to pay for the funeral. This should be done before you pay any funeral expenses.
- Look through the papers of the person who has died for anything relating to life insurance or pensions and contact the providers. If the person had a job at the time of the death, contact the employer's HR department. Lump sum payments can often be made from life insurance policies and pension schemes very soon after a death. However, you should consult us before using lump sums of this type to pay funeral expenses: there may be a more tax-efficient way to use the money.
- If you are arranging a funeral for a partner or close relative and you are on a low income, you may qualify for help in paying for it. You may have to repay some or all of it from the estate of the person who has died. For more information, see the government websites listed in the section.

Organ and medical donations

If you know that the person who has died wanted to leave his or her body for medical research, look for the relevant consent form. The form may be stored with the person's important papers or with the Will or stated in their Will. The form will have details of the relevant research institution: contact it and follow the procedure it recommends.

Informing people of a death

Executors

Executors need to be informed of the death at the earliest opportunity so that they can fulfil their duties.

Solicitors

You should contact a solicitor, such as ourselves, soon after the death to find the Will and to figure out who the executors, if not you, are.

If there is a Will

If you have not contacted us before the funeral, you should do so soon afterwards, and arrange a meeting. For guidance about the papers and information you should take to the meeting, see the checklists section included in this guide.

If there is no Will

If the person who has died seems not to have left a Will, then one or more of the person's closest relatives (wife, husband or civil partner, father or mother, brother or sister, son or daughter) should contact us for advice. We can help with further searches for the Will and explain what to do if the person is intestate.

Bank or building society

Tell the bank or building society where the person who has died had a current account about the death.

Banking and bills

If you had a joint bank or building society account with the person who has died, then from the time of the death you automatically own the money in the account. The account is not 'frozen' after the death and you do not need a grant of probate or any authority from the personal representatives to access it. You should, however, tell the bank about the death of the other account holder.

Passport Office

Look for the passport of the person who has died and return it to the UK Identity and Passport Office so that it can be cancelled. Alternatively, use the DWP's 'Tell us once' service if it is available in your area.

Private landlord or local authority

If the person who has died was a tenant living in rented accommodation, tell the landlord or local authority about the death. If the accommodation was shared and the remaining occupant was not a co-tenant but wants to stay in the property, the landlord may be willing to make a new rental agreement with the remaining occupant. He or she may find it helpful to get guidance from a solicitor before approaching the landlord.

Employer

If the person who has died was in employment at the time of the death, tell the employer's HR department about the death. It is best to do this soon after the death to speed up the process of paying out any salary due to the estate and lump sums from a pension scheme.

DVLA

Contact the Driver and Vehicle Licensing Authority (DVLA) to cancel the driving licence of the person who has died and to request that the registration details of his or her car are amended. The contact details for the DVLA are on the GOV.UK website. Alternatively, use the DWP's 'Tell us once' service if it is available in your area. If anyone is going to drive a car that belonged to the person who has died, check that they are adequately insured.

Utility companies and other service providers

You can skip this section if the person who has died lived in a residential or nursing home and no longer had a private home.

The providers of services to the home must be told about the death. For example:

- Utility companies supplying gas, electricity and water.
- Broadband, phone and satellite TV providers.
- The Television Licensing Authority.
- The local Council Tax authority.
- Suppliers of other regular services, such as gardening and cleaning.

If the suppliers addressed their bills to the person who has died, tell them about the death and, where appropriate, arrange for them to take meter readings as close to the death as possible.

If someone else is going to go on living in the property, contact the supplier to arrange for the account to be transferred into that person's name, if they want to go on receiving the service - or arrange to switch to another supplier.

Remember that direct debits from a bank or building society account of a person who has died, including direct debits to utility suppliers, are cancelled when the bank or building society hears about the death.

Royal Mail

If the person who has died was living alone in a private home, contact the Royal Mail to arrange for post to be redirected. Redirecting to one of the personal representatives is best, since the post is likely to include information about the person's assets and debts.

Paying bills

Bank accounts and other assets in the sole name of the person who has died are usually 'frozen' from the death until the personal representatives obtain a grant of probate or letters of administration. If the person who has died paid household bills, then the other members of the household may be worried about how to manage between the death and the grant. There are various ways of dealing with this problem, for example:

- If a member of the household had a joint account with the person who has died, that account can be used to pay bills. See the section on joint accounts.
- It may be possible to borrow from a family member or from the bank.
- If the person who has died had life insurance or was a member of a pension scheme, a lump sum may be payable soon after the death.

It is a good idea to contact us for advice on the different options.

Gathering the necessary information

If you are an executor appointed in the Will of the person who has died, or the person is intestate and you are entitled to be appointed an administrator, then in the months following the death you will be involved in the administration of the estate. Your first task is to assemble as much information as possible relating to the person's assets and debts.

A list of papers and information that the executors or administrators are likely to need is included in the checklists section of this guide.

Bear in mind that if the person who has died had a computer, he or she may have kept records in electronic form and received bank statements and bills through the internet.

If you can find the relevant files on the person's computer, print them. If you cannot find them (for example, because you do not know the password of the person who has died), simply explain the situation to us.

Checklists

This section contains checklists of the information and documents you will need at various stages after a person's death.

Information to keep at hand

It is useful to note down the following information and keep it to hand:

- Full name of the person who has died and any former names.
- Address at death.
- Date of birth.
- Place of birth.
- Date of marriage or civil partnership.
- National Insurance number.
- NHS number.
- Tax reference.

Documents to look for immediately after the death

If the person who has died was living alone in a private home, someone should go to the home on the day of the death to look for papers relating to insurance of the person's home and its contents, preferably the home and contents policy itself. (See the previous section on insurance.)

Documents to look for before registering the death

The following papers contain information needed for registering the death:

- Birth certificate.
- Marriage or civil partnership certificate.
- Death certificate of former wife, husband or civil partner.
- State pension or allowance book.
- Passport.

Even if you cannot find these papers, you can register the death if you have all the necessary information. (See the previous section on registering the death).

Documents to look for before the funeral

It is desirable to find the following documents before the funeral but the funeral can go ahead even if you do not find them:

- The most recent Will of the person who has died, or a copy of it.
- Any note saying what kind of funeral the person wanted.
- Papers relating to life insurance or pension arrangements.

Documents to look for as soon as possible

As soon as possible after the death, but not necessarily before the funeral, find up-to-date papers and information relating to as many of the following as are relevant:

- Current bank or building society account.
- Employer.
- Rental agreement.
- Driving licence and vehicle registration.
- Suppliers of gas, electricity and water.
- Broadband, phone and satellite providers.
- Television licence.
- Council Tax.
- Other service providers, such as cleaners and gardeners.

Documents to look for before meeting solicitors

You will need papers containing up-to-date information about the following to enable you to start on the administration of the estate:

- Bank and building society accounts of the person who has died.
- Insurance policies.
- Property deeds.
- Share certificates, dividend vouchers and other papers relating to shareholdings.
- Statements relating to savings and investments.
- Valuations, for example of jewellery, paintings or furniture.
- Credit card statements.
- Personal loan agreements.
- Hire purchase agreements.
- Mortgages.
- Recent tax returns.
- PAYE P60 and recent payslips.
- Unpaid invoices addressed to the person who has died.
- Unpaid invoices issued by the person who has died.

If you would like us to help with the administration process, please send us these papers or bring them to our meeting if one has been arranged.

Glossary of terms

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| Administrator: | The personal representative of an intestate. |
| Administration of the estate: | This is the task carried out by the executors or administrators of a person who has died. It involves assembling all the person's assets, paying the person's debts and any tax due, and handing over whatever remains to the people who are entitled to it under the Will or the statutory rules that apply when a person dies intestate. |
| CAB: | The Citizens' Advice Bureau. |
| DWP: | The Department of Work and Pensions. |
| Estate: | Everything that belonged to a person who has died and all the person's debts. |
| Executor: | A personal representative appointed in a Will. |

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| Grant of probate: | A document issued by the Probate Registry to the executors of a person who has died confirming that they have authority to deal with the person's estate. |
| Intestate: | A person who dies without making a Will. |
| Personal representatives: | The people who have the legal authority to deal with the estate of a person who has died. They are often, but not always, members of the person's family. If there is a Will, the personal representatives are named in the Will and called the executors. If there is no Will, a solicitor whose practice includes Wills and probate can tell you who the personal representatives are. |
| Probate Registry: | The government office that deals with probate matters. |

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The information included in this document is intended as a guide only and does not constitute legal advice. For detailed information regarding the matters in this document please contact a member of our team. This guide was correct at time of publication.

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