

What you need to do after a death

A general guide from our licensed probate practitioners of things that need to be considered at the difficult time following a death

Our condolences to you in this hard time

We know that in times of mourning it can be very hard to know what the next step is for handling your loved one's estate. We wanted to provide a basic guide for those finding themselves in this challenging situation.

For the purposes of this summary, we have assumed that the value or nature of the deceased's estate is such that a **Grant of Probate (we have included a jargon buster on page four for the technical terminology in pink)**, or equivalent, will be needed.

The first step

Ideally, the deceased will have left a Will that is both valid and up-to-date. The first step is therefore to try and locate the original document or, failing that, a photocopy. While all that follows can be dealt with after the funeral, the fact that the Will may contain instructions as to burial, cremation etc. means that this search should be conducted as soon as possible.

No Will?

A properly prepared Will names as **Executors** those who the deceased wishes to deal with their assets and liabilities. In the absence of a valid Will it is up to those with an interest in **the Estate** to apply for the role of **Administrator**. The functions are not dissimilar to those of an Executor but, in the absence of a Will, the distribution of the Estate by an Administrator will be governed by the **statutory rules of intestacy**.

Even if you are unsure at first whether there is a Will in existence or who is to be an Administrator, it is common sense that family members or others likely to benefit from the Estate should secure any valuable possessions and any empty property.

Paying the Inheritance Tax

If an estate is required to prepare an Inheritance Tax (IHT) account to HMRC, then this must be done before the probate application is made to the Courts, otherwise the application will not be approved. An estate is required to prepare an IHT account if it is not considered an **excepted estate**.

If an IHT account is required, the forms can be long and complex, and there are a number of reliefs which may be available to the estate, to assist in reducing the IHT liability. If you would like assistance in completing the forms, including claiming any IHT reliefs, then our team would be pleased to help.

Where an estate has an IHT liability, HMRC often require the IHT to be paid before the grant of probate can be issued, which can cause cashflow problems for the Personal Representatives. In certain scenarios, instalment options are available, or a direct payment scheme to access frozen bank accounts. There may also be an option of obtaining a grant of representation on credit from HMRC.

Once the IHT forms have been prepared and submitted, and HMRC have processed these, the personal representatives can then proceed with the probate application.

Applying for Probate

With the exception of those held in joint names, the assets of the deceased will generally be frozen until a Grant of Probate (in the case of Executors) or Letters of Administration (in the case of Administrators) has been obtained from the Probate Registry. The Grant gives the Executors or Administrators legal authority to deal with those assets. It may be applied for personally or via an appropriately authorised individual (typically an accountant or solicitor). Either way, however, it is first necessary to gather together details of assets, liabilities and relevant expenses so that the necessary forms can be completed.

What do I do once I have the Grant?

Those appointed as Executors or Administrators – 'the personal representatives' – are responsible for:

- gathering together and protecting the assets of the deceased
- calling in any debts and settling any liabilities payable from the Estate
- managing those assets and, if appropriate, selling them
- dealing with the deceased's tax liabilities to date of death
- paying Inheritance Tax and tax liabilities for the administration period, and
- distributing the net assets remaining in accordance with the deceased's wishes (or rules of intestacy).

Do I need help?

An Executor or Administrator is personally liable for his or her actions and it is essential that the administration of the Estate is dealt with properly. There can be significant amounts of tax due (either Inheritance Tax or, in some cases, tax in respect of income or gains that the deceased failed to declare) with a risk of penalties for errors and omissions. In addition, the paperwork involved can be substantial and the computations complex, and there can be issues regarding the interpretation of the Will. There may also be tax planning opportunities for the beneficiaries. All of this comes at a time when you will be dealing with the loss of someone close to you and may find it difficult to focus on financial matters and paperwork generally.

There is no requirement to appoint a professional person, a firm of solicitors, or a bank as an Executor. There is similarly no requirement for Executors to engage a professional to assist them. However, anyone who finds themselves in this position should give careful thought as to whether they might benefit from some professional guidance, whether that is simply at the level of a 'helping hand' or whether it involves engaging someone else to deal with the whole process.



A useful checklist

Our specialists have also compiled a checklist of the legal and financial implications that need to be considered in the difficult time following a death.

Legal

- Obtain a medical certificate from the hospital/ doctor
- Certificate for Burial and Cremation (the 'Green Form') may be required prior to agreeing release of a body
- Register the death, find out more on gov.uk/register-a-death
- Obtain 10 copies of the certified death certificate - numerous copies are advisable as delays are caused waiting for copies to be returned by institutions, or are sometimes not returned at all in some cases
- If there is a will, check if there are any specific requests (for example, to do with their funeral)
- Contact funeral director
- Notify all the Executors named in the Will
- Decide if any Executor wishes to reserve power. All forms require signature by all Executors, sometimes it is inconvenient to have several Executors spread geographically, or if some do not have time or the inclination to act (they can decide to start to act later if they wish).

Notify Government organisations via the Tell Us Once Service (If this service is not used, each organisation needs to be contacted individually)

- HM Revenue & Customs (HMRC) to deal with tax and cancel benefits
- Department for Work and Pensions (DWP) to cancel any benefits such as Income Support
- HM Passport Office (HMPO) to cancel a passport
- Driver and Vehicle Licensing Agency (DVLA) to cancel a driving licence (you will need to send the registration certificate V5C)
- The local council to cancel housing benefit, council tax benefit, a Blue Badge, inform council housing services and remove the person from the electoral register.

Housing: who to contact if the property is to be vacant post death

- Their mortgage provider, landlord or local authority
- Ensure property insurance is current and renew if necessary. House and cars should be insured, Executors are responsible and liable for the safe keeping of estate assets.
- Royal Mail to arrange a re-direction service, if property is to be vacant
- Utility companies such as phone, water, gas, electric
- Any private organisation or agency providing home help
- TV or internet companies.

Financial

- Bank or building society accounts and National Savings (major high street banks can be informed online via Bank Notification service). Other banks require direct contact to inform them of their customers passing.
- Bank accounts will be frozen on death. However, there are standard methods for banks to pay funeral costs and make payments of IHT due, subject to funds being available.
- Direct debits and standing orders
- Credit cards and store cards
- Subscriptions to clubs, groups or magazines
- Insurance policies such as house, car, travel, medical. If the person who has died was named first on an insurance policy, make contact as early as possible to ensure you're still insured
- Pensions providers and life insurance companies
- Mobile phone contracts
- Companies with which they may have had rental, hire purchase or loan agreements.

Other organisations and people to contact

- Clubs, trade unions or associations to cancel their membership and possibly secure a refund
- Their doctor or hospital to cancel any appointments
- Their dentist and optician
- Their church or regular place of worship

Jargon buster

We explain some of the technical terms used in this document, and some that you may encounter during the proceedings.

- **Grant of Probate** - the document which confirms the executor(s) of a will have the authority to deal with the assets of a deceased person.
- **Executors** - the person or people responsible for carrying out the wishes contained in the Will.
- **The Estate** - the total of all of an individual's assets, less all their liabilities.
- **Administrators** - someone who is responsible for dealing with an estate under certain circumstances, for example, if there is no will or the named executors aren't willing to act.
- **Statutory rules of intestacy** - this informs how a person's estate is distributed in the absence of a Will. Under the rules of intestacy, the estate of the deceased is distributed in a particular way depending on who survives, how they are related to the deceased and how many individuals there are.
- **Excepted estate** - An excepted estate is an estate which does not need to prepare IHT forms and submit these to HMRC. Excepted estates usually do not have an IHT liability to pay, although there are some cases where even though an estate has no IHT liability, it is still required to prepare IHT forms before the grant application can be made, such as estates with foreign assets.

Our firm is licenced to carry out non-contentious probate work. Our advisers can talk you through this process in more detail, explain to you the ways in which they can assist, and tell you how much that is likely to cost. Those same advisers can assist you with Inheritance Tax and more general planning, the structuring of your Will, and your choice of Executors.

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