

A Guide to Probate



A Practical Guide for Dealing with Probate

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Introduction]

We have put together a guide which you may find useful at a difficult time.

We have included some pointers which may help in the early stages and also included points for further consideration in due course.

Registering the death]

At the time of registering the death it is practical to obtain a number of certified copies of the death certificate, roughly equivalent to the number of assets held by the person who has died.

However, where the estate is complicated and there are a large number of assets it may be impractical and unnecessary to obtain the same number of copies as there are assets.

WHO CAN REGISTER THE DEATH?

You can register the death if you are:

- A relative
- Someone present at the death
- An administrator from the hospital
- The person making arrangements with the funeral directors

Who should you advise about the death?

FAMILY AND FRIENDS

It can be difficult to tell close family about the death, and can also be difficult to tell complete strangers, such as the deceased's employer. You may therefore want to ask trusted person(s) to let their branch of the family know, and ask a friend to pass on the message to others in the same social circle. An address book, contacts on a mobile and/or a computer, along with social networking sites which they might have used can help to give you an idea of who to contact.

It is useful to keep details of the funeral, once arranged, by the phone, so that anyone who takes the call can pass on the details.

PROFESSIONAL ORGANISATIONS

Tell Us Once

Tell Us Once is a government service that allows you to report a death to most government organisations in one go, saving you both time and effort at this already difficult time. Once you have registered the death, your registrar will give you a unique reference to access the Tell Us Once service online www.gov.uk/after-a-death/organisations-you-need-to-contact-and-tell-us-once or by telephone (you can also get the phone number from the registrar).

What information you need to use the Tell Us Once service

You will need to know the following details of the deceased:

- Date of Birth
- National Insurance Number
- Driving License Number
- Passport Number
- Details of any benefits or entitlements they were getting (e.g. state pension)
- Details of any local council services they were getting (e.g. blue badge)
- Name and address of their next of kin
- Name, address and contact details of the person/company dealing with their estate (property, assets, money), who are otherwise known as their executor or administrator

NOTE: you will need to seek permission from the next of kin, executor and/or administrator, or anyone who was claiming joint benefits or entitlements with the deceased, before you pass on their details

Who will Tell Us Once notify?

The Tell Us Once service will notify the following organisations of the death of the deceased:

- HM Revenue and Customs (HMRC) – to deal with Tax and cancel benefits
- Department for Work and Pensions (DWP) – to cancel benefits (e.g. income support)
- Passport Office – to cancel passport
- Driver and Vehicle Licensing Agency (DVLA) – to cancel a driving license. You will need to send the registration certificate (V5C) (if the deceased owned a vehicle)
- The local council – to cancel housing benefits, council tax benefit, a blue badge, inform council housing services and remove the deceased from the electoral register

NOTE: There is a different process to update property records if the deceased owned land and/or property. Your solicitor should be able to advise you further on this.

My local registrar does not offer the Tell Us Once service

If your local registrar does not offer the Tell Us Once service, or you choose not to use it, then you will have to let the relevant organisations know about the death yourself.

NOTE: The Tell Us Once service is not available in Northern Ireland, or if the deceased died abroad.

Funeral arrangements]

If the person who has died left a Will it may contain directions about funeral wishes.

Therefore, following the death, one of the first tasks is to find out whether the deceased left a Will. The National Will Register can assist in trying to locate a Will through a Certainty Will Search. Every day The National Will Register finds Wills for estates that were presumed intestate (see Glossary on page 10) or a later Will is discovered that supersedes a known Will.

If or when a Will has been located, you will need to check to see if any funeral wishes have been included in the Will. These wishes may be as simple as “I wish to be cremated” or they may be more detailed, perhaps specifying a church, cemetery or crematorium and ideas or directions for the service.

If the deceased did not leave a Will, responsibility for choosing and arranging a funeral usually rests with close relatives.

What to do if there is a Will

If the person who has died has left a Will, it will usually name one or more persons to act as the Executors of the Will to administer the estate. If you are named as an Executor of a Will, you may need to apply for a Grant of Probate.

A Grant of Probate is an official document which the Executors may need to administer the estate. It is issued by the Probate Registry.

What to do if there is no Will

If the person who has died did not leave a Will (known as dying intestate) the process is more complicated. The Administration of Estates Act 1925 sets out who has the legal right to deal with the affairs of the person who has died. This person is known as the Administrator of the Estate, usually this will be a close relative.

However, there may be more than one person who has an equal right to do this. Anyone who has the right can apply to the Probate Registry for a grant of Letters of Administration. This is an official document issued by the Probate Registry which allows the Administrator to administer the estate.

Administration of the estate - What this means and what is involved

Normally, when someone dies the Administrator will require a Grant of Representation (see Glossary on page 10) to deal with the assets of the estate. However, a Grant of Representation is not always needed, for example, if the deceased:

- Has left less than £5000 in total; or
- Owned everything jointly with another

Sometimes financial institutions may agree to pay funds to a Personal Representative without a Grant of Representation depending on the values involved. Each institution has a different discretionary threshold; it is always worth asking what this is.

Usually a Grant of Representation will be needed when the person who has died has left:

- More than £5000;
- Stocks and shares;
- A property or land; or
- Certain insurance policies

Is a grant of representation needed? - How to obtain a grant of representation

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The Personal Representative can choose to administer the estate themselves without the help of a Solicitor. The Personal Representative can apply in person to the district Probate Registry. You will need to attend an interview at the Probate Registry and fill in the appropriate tax and application forms.

Alternatively, a Personal Representative may decide to obtain assistance from a Solicitor who can deal with the day to day administration and guide the Personal Representative through their duties and responsibilities.

Responsibilities of personal representatives

The task of being a Personal Representative can be onerous and imposes personal responsibilities, for example:

- Personal representatives are responsible for making sure that the estate is administered correctly. If there is a Will, the Personal Representatives have a responsibility to ensure that any wishes of the deceased, as set out in their Will, are followed. If there is no Will, the Personal Representatives must follow the rules of intestacy (set out in the Administration of Estates Act 1925).
- Obtain valuations of all estate assets owned including properties.
- Settle all debts and outstanding bills.
- Personal Representatives are also responsible for finding out if Inheritance Tax is due. If it is, the Personal Representative must calculate this and arrange payment of any Inheritance Tax due.
- Register any Income Tax due, submit relevant forms to HMRC and make full settlement.
- Prepare and submit estate accounts.
- The estate cannot be dealt with until all claims to it have been received. Many Personal Representatives are unaware that 'disappointed' individuals have six months from the date when the grant was issued to make a claim against the estate. Any claims before this period has elapsed have to be considered carefully.
- Unless the Personal Representative is absolutely sure they know all of the details of the estate, it is always a good idea to issue a notice in the London Gazette and local press which gives creditors a deadline to come forward before distributing the estate.

Even a relatively straightforward estate can take time to deal with. It is therefore important that the expectations of the Personal Representatives and beneficiaries are realistic from the outset.

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Renunciation of an executorship

If you find you are appointed as an Executor and are unwilling to act, you can renounce your role of Executor allowing the remaining executors to act without you. It is important to consider if you wish to renounce before starting to deal with the estate in any way. You may wish to seek professional advice if you are considering renouncing your role as executor.

Property – insurance considerations

- If the person who has died owned a property, it is important that the buildings insurance continues. The insurers will need to be advised of the death as soon as possible. Also check whether the insurance premium is paid for in full or if payments are made by monthly direct debit. When the banks are notified of the death often all direct debits are cancelled.
- Often contents insurance will be null and void due to the unoccupied nature of the premises after 30 days.

Personal Representatives may wish to seek alternative cover or failing this, may wish to remove some items of value for safekeeping.

Motor vehicles

- The deceased's car may need urgent attention, for example if the road tax and/or insurance is due.

Banks and building societies

- The deceased may have had multiple bank accounts that will need to be contacted and notified of the death. You may wish to contact **The Death Notification Service**, this service allows you to notify a number of banks and building societies (financial institutions) of a loved ones death at the same time through filling out a single form online or via a phone call.
- You will also need to check to see what is paid by direct debit. For example, it is important that a mortgage lender is aware of the death.

Summary

We hope that you have found this guide useful. It is designed to provide help at a difficult time and is not intended to worry or confuse you. However, if you do require some assistance, please find some information below about The National Will Register and how we may be able to assist you.

About us

The National Will Register is the Law Society's trusted partner and provider of a National Will Register and is chosen, endorsed and used by the public, legal profession, law firms, PI insurers, Government agencies, charities and other associated sectors and organisations to register Wills and search for Wills.

Thousands of Will writing professionals and the public use The National Will Register to register Wills and search for Wills prior to distributing the estate.

Certainty Will Search is proven to reduce the risk of distributing an estate on an assumed intestacy basis or when a Will or later Will may exist. There are many reasons why a Will may have been forgotten about, maliciously destroyed, or where an unknown later Will exists. Certainty Will Search provides a recommended and accredited search process that searches for registered and unregistered Wills to understand if a Will or later Will exists.

The information contained in this guide is meant for information purposes only and you should seek your own legal or professional advice where applicable.

Glossary]

We have tried to keep this note short and free of legal jargon. There are however many legal terms which you will come across such as those listed below:

Personal Representatives

refers to Executors and also Administrators of an Estate.

Grant of Representation

refers to Grant of Probate (where there is a Will) and grant of Letters of Administration (where there is not a Will) often people just refer to as a grant.

Intestacy

the estate of a person who died without having made a valid Will.

Probate

the legal process of administering the estate of a deceased person by resolving all claims and distributing the deceased persons property under the valid Will.

Letters of Administration

granted by a court or Probate Registry to appoint appropriate people to deal with a deceased persons estate where property will pass under Intestacy Rules or where there are no executors living, or willing and able to act, having been validly appointed under the deceased's Will.

Trustee

can refer to any person who holds property, authority, or a position of trust or responsibility for the benefit of another.

Administrator

a person appointed by a court to handle the administration of an estate for someone who has died without a Will.

Useful contacts

The National Will Register

Certainty the National Will Register, provider of Will Registration and Will Search services in the UK, is chosen, endorsed and used by the legal profession, law firms, PI insurers, Government agencies, charities, the public and other associated sectors and organisations.

www.nationalwillregister.co.uk
enquiries@certainty.co.uk
0330 100 3660

Government Services and Information

The official website of all government departments helping you to get quick and accurate information.

www.gov.uk

Department for Work and Pensions

The Department for Work and Pensions (DWP) is responsible for welfare and pension policy. It is the biggest public service delivery department in the UK and serves over 20 million customers.

www.gov.uk/government/organisations/department-for-work-pensions

NHS Choices

The official website of all NHS departments helping you to get quick and accurate information.

www.nhs.uk

National Association of Funeral Directors

A National Association of Funeral Directors (NAFD) member firm will guide you through the process and help you make arrangements at what can be a very upsetting time.

www.nafd.org.uk
info@nafd.org.uk
0121 711 1343

Citizen's Advice

The Citizens Advice service helps people resolve their legal, money and other problems by providing free, independent and confidential advice, and by influencing policymakers.

www.adviceguide.org.uk
08444 111 444

Age UK

Age UK believe that they can help everyone to make the most of later life. We do this by inspiring, supporting and enabling in a number of ways including areas such as Money Matters, Home & Care, Health & Wellbeing, Work & Learning, and Travel & Lifestyle.

www.ageuk.org.uk
020 8675 7200

Cruse Bereavement Care

Cruse Bereavement Care supports you after the death of someone close. Face-to-face and group support is delivered by trained bereavement support volunteers across the UK.

www.crusebereavementcare.org.uk
helpline@cruse.org.uk
0844 477 9400

The Bereavement Register

The Bereavement Register can help reduce the amount of direct mail sent to their address, stopping painful daily reminders.

www.the-bereavement-register.org.uk
help@thebereavementregister.org.uk
020 7089 6403

Samaritans

The Samaritans supports anyone in distress, around the clock, through hundreds of branches across the UK and Republic of Ireland. Their service can help people before it's too late.

www.samaritans.org
jo@samaritans.org
08457 90 90 90

Who we work with]





T: 0330 100 3660

E: info@certainty.co.uk

www.nationalwillregister.co.uk

The Mailbox, 101 Wharfside Street, Birmingham B1 1RF



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