

**MOMENTS
THAT MATTER**

What to do when someone dies

hcr

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When someone close to you dies, it is easy to feel overwhelmed. You will need to juggle the emotional impact of the loss of a loved one, with the practical tasks which need to be completed, often within a short period of time.

This guide is designed to help you navigate the process, providing information about some of the key stages of administering an estate and the support there is available to help you with the process. It also looks at areas where specialist advice should be sought so that more complex elements are managed correctly.

Initial steps to take

Registering a death

A death needs to be registered officially at the Registrar's Office in the area that the person died within five days of the death. Only the next of kin (or sometimes the person organising the funeral) can register the death. Make sure that you have key information about the person to hand, including their full name (maiden name if applicable), occupation, name of their spouse and the place and date of birth and death. The Registrar will provide copies of the death certificate. You should make sure that you order enough copies for use during the administration process. This includes sending copies to any financial institutions, insurance companies, etc. If you are using a solicitor to administer the estate, we would advise obtaining two copies.

Funeral

When you have the death certificate you can appoint a Funeral Director. The National Association of Funeral Directors (NAFD) is a good starting point and regulates two thirds of funeral directors in the UK. A Funeral Director will provide a full breakdown of their costs, including transporting the body to a chapel of rest and making funeral arrangements. There are other costs which may also be incurred, including publishing notices in local newspapers, fees for burial or cremation, memorial stones, celebrants and flowers. You should also consider arrangements for a wake, although these costs may not be able to be claimed from the estate.



Securing property and valuables

Generally there will not be much to do in the first few days and weeks. However, if the person lived alone, you will need to let the insurers of their property know and may need to follow a set of requirements to maintain the insurance. Keys should be held by the Executor and potentially a trusted neighbour in case of any issues. Any vehicles should be made secure, and you should notify the insurance company that the policy holder has died. The vehicle will not be able to be driven unless you are insured on your own policy. Any smaller valuables such as jewellery, watches or cash should be removed from the property and held securely. You may also have to liaise with local medical teams to arrange for collection of controlled medicines or equipment. If the deceased owned a firearm, this may need to be removed from the property to the care of another licence holder.

Locating a will

You may already be aware of the location of the will. If the will was stored with a solicitor, it will be necessary to speak with the firm to inform them that the person has died and to check for any funeral wishes. You will be required to provide the firm with a copy of the death certificate. If the will was stored at home, or elsewhere, it will need to be located and steps taken to confirm that this was their final will. It could also be the case that no will was written. More information on this can be found later in this guide.



Administering an estate

Whilst all estate administrations follow a similar path, some will be more complex than others, requiring significant tax advice to ensure that the estate is managed correctly and in the most tax efficient way possible. Estate administration is an important and significant job. The information below is not exhaustive but will give an indication of the key stages that need to be followed.

Testate or intestate?

If a will was written by the person who has died, the will should appoint Executors who will be able to submit the probate application and deal with the administration of the 'testate' estate. The executors could be close family members, trusted friends, legal professionals, or a combination of all three.

If no valid will was in place, the estate is described as 'intestate' and someone will need to apply to be an Administrator to manage it. Only certain people can apply to administer an estate, typically close relatives. An estate which does not have a will can take more time and be more costly to administer.

Executors and Administrators are not paid for their role unless it is a solicitor who is dealing with the administration. However, they can claim back from the estate any costs they incur, including postage, copying of documents, placing official notices and selling assets.

Grant of Probate

A Grant of Probate must be applied for so that the Executors can administer the estate. The process is similar if there is no will but is called an application for a Grant of Letters of Administration. A fee is payable to apply for probate and details of all the deceased person's assets and liabilities at the date of their death must be included in the application. It can be a lengthy process waiting for organisations to provide details about any policies, accounts or liabilities the deceased person had. When probate is granted, the validity of the will is confirmed and the Executors have the formal authority to deal with the estate. The Grant of Letters of Administration provides a similar authority to the Administrators.

Being an Executor or Administrator

The role of an Executor (or Administrator if there is no will) can be time consuming with many legal obligations to be aware of. Some estates, such as those where assets are transferred to a surviving spouse, or which fall below the threshold for inheritance tax purposes may be relatively simple. However, many will have complicating factors, including:

- Gifts (of cash or other assets) which were made during the lifetime of the deceased
- Property or other assets which are owned overseas and may require a foreign grant
- Debts which may not be immediately obvious so that a notice should be placed in specific publications to allow any creditors to come forward
- More valuable assets and specialist items such as art, antiques and jewellery, which will need specialist valuations for tax and reporting purposes
- More complicated tax positions, including business/farm ownership or non-domiciled status
- If an individual believes that they have not been provided for adequately (or at all) and challenges the contents of the will.



Depending on the value of the estate and other factors such as the employment status at the time of their death, there may be tax liabilities (or potentially overpaid tax due to the estate). These include:

- **Inheritance tax**

There are various exemptions and reliefs which can be claimed to reduce an estate's liability to inheritance tax. If tax does need to be paid, in some circumstances, the tax due can be paid in instalments. A detailed tax return for the estate may need to be completed and close attention needs to be paid to any costs which can be offset against the inheritance tax bill (such as funeral expenses) as well as any necessary adjustments to valuations of assets when they sell to ensure that the tax due is correct. This is a specialist area which requires accurate accounts to be submitted to HMRC and, in some cases, negotiations had with HMRC regarding the tax liability. Our full guide to inheritance tax can be found at www.hcrlaw.com/publications

- **Income tax and capital gains tax**

In addition to the need to finalise the tax position to the date of death, the Executors (and Administrators) have a responsibility to submit to HMRC details of any income received and capital gains made during the administration and to pay any income tax and capital gains tax due.

We would recommend speaking to us as soon as possible for professional advice in relation to tax liabilities to ensure that all exemptions, reliefs and allowances are used effectively, and to avoid any issues with declaring incorrect values.

For some estates it may also be possible for the Beneficiaries to sign a Deed of Variation which would vary the terms of the will (or the way in which the Intestacy Rules apply).

Steps can also be taken to allow beneficiaries to use their own capital gains tax allowances against the sale of assets in the estate. This is a specialist area which requires professional advice. It should be reviewed as early as possible and could result in significant tax savings.



Finalising the estate

Once granted, the Executors (or Administrators) can use the grant to administer the estate, collect in any monies owed, sell assets and pay liabilities due. All monies collected should be held in a specific Executor bank account to allow for easy reporting. When all assets have been collected and liabilities paid, the estate can be distributed. This must be done in the correct order depending on the terms of the will (or the Rules of Intestacy). Often, there may be charitable legacies and personal possessions left to individuals before the remainder of the estate is divided amongst specified Beneficiaries. Care should be taken to ensure that personal possessions are distributed fairly or by agreement with the Beneficiaries. Some items may need specific valuations and Trustees may need to be appointed to manage legacies for minors or vulnerable individuals. Interim payments can be made, often following the sale of a significant asset, however the Executors (or Administrators) must make sure that enough funds are retained to pay all costs and other liabilities.

As the estate is wound up, formal returns and paperwork are likely to need completing for agencies such as HMRC, pension providers and overseas authorities if there are foreign assets. Charities who are entitled to a share of the residue will also require a full set of estate accounts to verify the amount they have received.

Initial checklist

- Register the death at the Registrar's Office and purchase copies of the death certificate
- Contact close family and friends to make sure that everyone has been informed of the death
- Check if there is a valid will
- Contact the Solicitor to check for any wishes and preferences for funeral arrangements
- Discuss the funeral with close family members and agree on arrangements
- Appoint a Funeral Director to manage funeral arrangements
- Create a list of key individuals who will be involved in the administration (with contact details)
- Notify house insurer and car insurers to make sure that they are aware. Ensure property and vehicles are secure and that any keys are safe with an Executor or trusted individual.
- Remove any small, valuable items and ensure that they are held securely, ideally by an Executor.



Glossary

Executor

An individual named in a will whose role is to manage the estate

Administrator

Someone who applies to manage an estate if there is no will

Grant of Probate

The authority for an Executor to administer an estate

Letters of Administration

Gives authority to an Administrator to manage the estate where no will was made

Intestate

When someone dies without leaving a will

Deed of Variation

A document which can (in some circumstances) allow the terms of a will to be varied to secure certain tax exemptions and allowances

Inheritance Tax

Tax which is liable on estates over a certain value and in certain circumstances

Other useful sources of information

**Step by step guide
from the Gov
website**

**Tell Us Once
service**

**Guidance from
Age UK**

T: 0800 055 6112

**Cruse Bereavement
Support**

T: 0808 808 1677

**National
Association of
Funeral Directors**

T: 0121 711 1343

For support with administering an estate or what to do when a loved one dies, contact a member of the HCR Private Client team.



**Click here
to contact
the team**

Birmingham

T: 0121 454 0739

F: 0121 455 7211

Cambridge

T: 01223 461 155

F: 01223 316 511

Cardiff

T: 02922 749 200

F: 02922 749 201

Central England

T: 01604 233 233

F: 01604 627 941

Cheltenham

T: 01242 224 422

F: 01242 518 428

Hereford

T: 01432 349 670

F: 01432 349 660

London - International HQ

T: 020 7489 6320

F: 020 7681 1261

Thames Valley

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