PEACOCK & CO Solicitors

What to do when someone dies

When someone dies

If you are the first port of call, there are some immediate things to consider:

- If the deceased is at home, an attending doctor will need to be called to certify the death.
- Who are the immediate family members and friends that need to be informed?
- Are there dependents or pets that need to be cared for?
- Do you have keys to secure the property?
- Are there immediate deliveries to be cancelled such as milk, groceries, or medical provisions?
- Empty the fridge and clear away any perishables.
- Set up Royal Mail redirection to protect the deceased's personal information. This can be done online.
- You will be required to share key information. Do you know the deceased's date of birth, their place of birth and any previous names?

Probate and Estate Administration

When someone dies there can be a lot of paperwork to complete in order to administer the estate and obtain a grant of probate, should one be needed.

The paperwork can be daunting, especially when you are dealing with the loss of someone close to you. Many of the procedures you may not have come across before, and even if you have dealt with an estate previously, over the years there have been changes.

This guide is intended to help you through this process and give you an overview of what is required when winding up someone's estate, as well as how we can help you.

First steps: Register the death

After someone dies, the cause of death is checked by an attending doctor. You will be contacted by the medical examiner's office to ensure you have no questions about the healthcare provided up to death and to confirm that you can proceed to registering the death.

The death must be registered within five days, usually at the Register Office in the area where the death occurred. Information about how to register a death is available online at gov.uk which will also help direct you to your local register office:

www.gov.uk/register-a-death

"At a time of overwhelming grief, I was guided through new and unfamiliar responsibilities with confidence, sapience, humour, patience and compassion."

The person who registers the death should be:

- The executor named in the deceased's will, or the person entitled to deal with the estate if there is no will;
- A relative of the deceased;
- The person who was present at the death; or
- The person who is arranging the funeral.

To register a death, you will need the following:

- The deceased's birth certificate;
- The deceased's marriage certificate;
- The deceased's full name (including maiden name), address, occupation, date and place of birth, and marital status.
- Details of the deceased's spouse or civil partner, including date of birth and occupation.
- Confirmation whether the deceased was receiving a state pension or any other benefits.
- Details of the funeral director.

The registrar will give you a code to use the online Tell Us Once service - this will notify government organisations such as the DWP and DVLA in one easy process.

After registering a death

The registrar will issue the certificate for burial or cremation (often this is sent directly to the funeral director). You will be able to purchase death certificates. We recommend ordering more than one as you will need these to notify banks, personal pensions etc.

Registration may be delayed if there is a post-mortem or coroner's inquest (this can be when a death occurs suddenly or where the deceased has not seen a doctor recently). In this case an interim death certificate may be issued.

Is there a will?

The next step is to ascertain if there is a will. If there is, you will need to check that it is a valid legal document and a solicitor can help you with this. If you are unsure whether a will exists, an online search can be made via the National Will Register (a fee applies).

www.nationalwillregister.co.uk

If there is no will then the estate passes under intestacy laws, which can be complex. A solicitor can help here. It is also worth making up a family tree for the deceased.

The person responsible for dealing with the estate is the executor named in the will, or the administrator according to the laws of intestacy – we shall now refer to them generally as personal representatives (PRs).

“Excellent support and advice. Legal knowledge with a strong element of common sense and judgement, delivered with warmth.”

Organise the funeral

Once you have the death certificate, you can make arrangements for the funeral according to the will, or family wishes. For details of a funeral director close to you, try the National Society of Allied and Independent Funeral Directors (SAIF):

www.saif.org.uk

Paying for the funeral

Whilst the bank accounts of a deceased person are frozen upon death, usual practice is for the bank to pay the funeral director's account directly. Do keep receipts for any other expenses, such as for the wake or refreshments afterwards which can be reimbursed from the estate once probate has been granted.

Next steps

As a PR, you will have some immediate issues to consider:

The Tell Us Once service will notify government organisations, such as the DWP and DVLA. This is an easy online process, using the code received when registering the death.

www.gov.uk/after-a-death/organisations-you-need-to-contact-and-tell-us-once

Notification checklist:

- [ ] Contact the bank of the deceased - they will freeze accounts and cancel any standing orders or direct debits. This process is now largely done online.
- [ ] Contact any private pensions and investments of the deceased, including National Savings and Investments (NS&I).
- [ ] If they lived alone, consider removing any valuables from the deceased's property.
- [ ] Secure any vehicles and notify the insurers.
- [ ] Notify the buildings and contents insurers that the property is now empty – it is likely the cover will continue but conditions will be attached, or premiums increased. Failure to notify insurers could invalidate the insurance policy.
- [ ] Notify utility companies: water/gas/electricity/TV and broadband.
- [ ] Notify any memberships or subscriptions.
- [ ] Notify the deceased's doctor's surgery, dentist etc.

Probate

PRs are responsible for administering the estate of the deceased and thereafter distributing it in accordance with the will, or the laws of intestacy.

If you have been appointed a PR but don't wish to act, it is possible to step down. You can 'renounce' your role (give it up entirely), or 'reserve your power' (which allows you to be a PR at a later date). Please contact us for further information on this.

What is probate?

Probate is a court order confirming the validity of the will, or confirmation of intestacy laws and gives PRs authority to deal with the deceased's estate. If there is a will, the document is called a grant of probate; if there isn't, it is a grant of letters of administration – we will refer to both as 'probate' in this booklet.

Will probate be required?

Probate isn't generally needed for joint assets (except in some cases for properties); nominated assets (e.g. pensions); or assets held in trust (e.g. life policies). Some institutions will allow accounts to be closed without probate if the value of the asset is below £50,000, albeit this does vary.

If probate is required, it is important to be mindful of timescales in order to claim tax reliefs and avoid interest on inheritance tax. The probate system itself can be quite confusing. Most applications can be filed online but some still have to be made by paper application. If the wrong application is made, it is put into a 'stopped' pile which can cause significant delays.

Probate: Things to do

Valuations need to be obtained for the deceased's assets and liabilities to ascertain if any inheritance tax is payable.

This includes:

- Banks and building societies;
- Investment companies for ISAs, shares and bonds;
- NSI for Premium Bonds or other NSI products;
- Life assurance companies;
- The deceased's personal possessions;
- The deceased's property;
- Liabilities - such as credit cards, loans, mortgages etc.;
- Pensions - including for any overpayment or underpayment.

Will inheritance tax be payable?

Together with the advice of a solicitor, the PRs can then ascertain whether inheritance tax is payable and ensure all reliefs and allowances have been claimed in time.

An inheritance tax account is generally needed when inheritance tax is payable, but may still be needed even if there is no inheritance tax due, such as if the estate is over £3m (where a spouse or charity is inheriting) or to claim certain reliefs – e.g. the 'residence nil-rate band' or 'business property relief'.

Once the inheritance tax account is completed and filed, and the relevant tax paid (if any), then PRs must wait for HMRC to issue a code to enable them to apply for probate. This takes about 20-25 working days.

Once issued, an application for probate can be made, consisting of a legal statement signed by the PRs, filed with the will (if any). Probate timescales can vary but are generally within 12-16 weeks from application.

After probate is issued

Once probate is issued, PRs are able to complete the estate administration, collect assets and pay liabilities.

If there is any danger of any unknown liabilities, then the PRs can apply for statutory adverts to be placed and any unknown creditors have two months in which to make a claim on the estate – this costs around £300.

Dealing with property

At this stage any property can be sold. Whilst you can market any property prior to probate being granted (and in some cases this is advisable), you cannot secure the sale and exchange contracts until probate is granted. During this time, an exemption on council tax can apply for 12 months on an empty property.

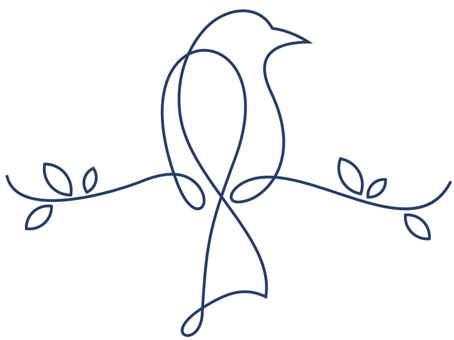
Paying expenses and liabilities

Once monies come into the estate, the PRs' expenses can be paid, as well as any final inheritance tax due. HMRC inheritance tax should be notified of any amendments to the probate valuation of the estate; they will then adjust the tax payment or arrange a rebate. A formal letter of clearance should also be obtained.

Paying any tax

Double check with HMRC that there are no income or capital gains tax returns that need to be filed to the date of death. If there is any income coming into the estate since the date of death (e.g. bank interest, or dividends) or any large asset is sold (£500,000 or over), then the estate must be registered for income tax and capital gains tax and a tax return filed.

PRs can then prepare a set of estate accounts showing the financial aspects of the estate administration and distribute the estate in accordance with the will or under the intestacy rules.



Notes

How we can help

Our experienced team can help wind up an estate efficiently, whilst being sensitive to the feelings of the family. We recognise that some executors are happy to do much of the legwork themselves and therefore we are flexible in the service we provide – we can manage the entire estate administration for you, just obtain the grant of probate, or offer a combination of the two. We can also provide up-to-date advice on post-death tax planning through deeds of variation.

Meet the Team

Our friendly team of expert solicitors will be happy to assist you.

Katherine Carroll
Managing Partner, Head of Private Client
katherine.carroll@peacock-law.co.uk

Kim Peacock
Managing Director, Partner
kim@peacock-law.co.uk

Emily Simpson
Private Client Solicitor
emily.simpson@peacock-law.co.uk

Niamh Phelan
Private Client Solicitor
niamh.phelan@peacock-law.co.uk

Isadora
Private Client Consultant Solicitor
isadora@peacock-law.co.uk

Let’s take the next step together

At a time of grief, dealing with a loved one’s estate can seem overwhelming. Our expert team are here to guide you through the process of obtaining probate with clarity, compassion and care.

PEACOCK & CO

Wimbledon Village office

94 High Street, Wimbledon, London SW19 5EG | 020 8944 5290

Epsom office

Park Place House, 24 Church Street, Epsom KT17 4QB | 020 8035 0388

peacock-law.co.uk

These notes are for general guidance only. The legal position may alter from time to time. You should seek advice on your individual circumstances before making any decisions. We cannot take responsibility for action solely based on these guidelines.