



Dealing With A Death (Probate)

A Step By Step Guide

We know what you are going through, and we are here to help.

What To Do When Someone Dies

We know losing a loved one is never easy, and leaves so many arrangements to make that knowing where to begin can be overwhelming.

Whilst we know it will be a difficult time, the following guide should help you prioritise the steps you need to take.

Our experienced lawyers are more than happy to assist with individual steps, or can handle the entire process from start to finish should you prefer. If you would like to discuss any of this in more detail then please feel free to contact us and we would be glad to help.

- 1** Register the Death
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- 2** Locate the Will and Identify the Executor
.....
- 3** Arrange the Funeral
.....
- 4** Inform People/Companies
.....
- 5** Value the Estate
.....
- 6** Calculate Inheritance Tax (if any)
.....
- 7** Apply for Probate (if needed)
.....
- 8** Collect & Distribute Remaining Assets
.....

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Step 1 – Register The Death

The doctor in attendance will complete the Medical Certificate of Cause of Death and send it to the medical examiner.

What happens next?

The medical examiner will review the information to make sure it is accurate before contacting you to discuss the cause of death and to answer any questions you might have.

The medical examiner will then send the paperwork to the registration service who will contact the next of kin to arrange an appointment to register the death. This appointment must take place within 5 days.

However, if the death has been referred to the coroner, the process may take a little longer but the Coroner's Office will complete the paperwork and contact you. The coroner will then provide the necessary paperwork to the registration service, who will then contact the next of kin to arrange an appointment to register the death.

What you will need

The Registrar will need details for the person including their full name, previous name, usual address and address of where the death occurred (if different), occupation, date and place of birth and the name and occupation of their spouse or registered civil partner.

You will need to bring the medical certificate, NHS number, National Insurance number and identification documents for the person such as a passport, driving licence, marriage certificate and birth certificate.

Once registered, you can purchase death certificates from the Registrar. We would recommend that you purchase at least two copies since many organisations will not accept photocopies.

What you will receive

- **Death Certificate** – this is a certified copy of the original entry which stays with the Registrar and is usually a light green colour.
- **Certificate for Cremation or Burial Slip** – commonly referred to as the "Green Form". This will be required by the Funeral Director when the funeral is arranged.
- **BD8 - Registration of Notification of Death – DWP** – if you use the 'Tell Us Once' service which will notify Government organisations of the death on-line you will not need the BD8. The Registrar will be able to tell you whether this is available in your area.



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Step 2 – Locate the Will and Identify the Executor(s)

The most important document to locate is the Will. If a Will was written, it must be found.

Where might a Will be kept?

If you are unsure about where the Will may be, try contacting their Solicitor or Bank, as it is common for Wills to be stored with them. If you cannot find the Will, you can always conduct a search of the National Wills Registry.

The Will should name the Executors. If you are not the named executor, you will need to notify the Executors named since they will be responsible for administering the estate.

Once the Will is located

If there is a Will, it is important that you and the Executors named seek legal advice to help you interpret the wishes and understand its terms. There may be trusts or limited interests that can be difficult to spot. The Will should set out exactly who is entitled to benefit from the estate.

What if there is no Will?

If there was no Will, or if the named Executors are unable to act, then the Law will assign a family member (often the nearest kin) or a beneficiary of the Will to act instead as a "Personal Representative".

Regardless of the outcome, the Executors/Personal Representatives will be responsible for dealing with the full administration of the estate. They can appoint a Solicitor to handle this for them.

Personal Representative Full Estate Administration

When a loved one passes away there are so many different matters to take care of that administering the estate can be a daunting prospect.

Being an Executor/Personal Representative is a legally binding role which subjects the individual to a lifetime liability both legally and financially for all actions undertaken on behalf of the deceased's estate. They will be tasked with valuing the estate, obtaining a grant of probate, collecting up all the money, property, possessions and other assets, paying off any debts and inheritance tax, preparing accounts and distributing the estate to the beneficiaries entitled.

We know that dealing with a loss will be a difficult enough time for you and your family. We are here to help by offering a Grant Only service or a Full Estate Administration service should you need it. We are here to deal with and support you with as much or as little as you need.

Full Estate Administration Service Includes:

Items with an asterisk* may only be administered where Banner Jones are acting as the executor.
Please visit our website or contact us for more information, help and advice.

- *Collecting belongings from the Hospital, Property or Care Home
- *Obtaining a medical certificate from the Doctor
- *Registering the death with the local Registry office
- *Obtaining the Death Certificate
- *Organising the Funeral
- *Making sure any and all properties are secure
- *Dealing with the re-homing of any pets
- Arranging valuations on properties, their contents, and any other assets
- Organising for properties to be cleared, and for any gifted items to be delivered to the appropriate beneficiaries
- Offering supports and guidance to executors and family members
- Arranging re-direction of post
- Preparing 'Trustee Act Notices'
- Liaise with all organisations that your loved one had dealings with
- Arrange for the property to be properly maintained if it is unoccupied
- Speak to estate agents and arrange for any properties to be marketed and sold
- If the estate includes any land, we can investigate if it is suitable for any development or planning permissions
- Investigate the Inheritance Tax position of the estate
- Prepare and submit the application for the grant of probate/representation
- Complete IHT returns, if required, calculate and arrange payment of inheritance tax out of the estate
- Arrange closure of accounts and encashment/transfer of investments
- Pay liabilities out of funds received into the estate
- Prepare estate accounts showing all transactions in the estate
- Dealing with any business/farm ownership or interests
- Distributing monies to all beneficiaries



Excellent service from start to finish. I was kept informed at all times and was able to speak direct with the both solicitors. The probate came through in 6 weeks and that included the Christmas break, unbelievable – Thank You Banner Jones.





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Step 3 – Arrange the Funeral

With the Green Form supplied by the Registrar, you can now organise the Funeral.

Who arranges the funeral?

Most funerals are arranged by the Executors or the nearest relatives. If there is no-one, the local or health authority will arrange a simple funeral.

The deceased may have left instructions about the type of funeral and burial they wanted. There is no legal obligation for these instructions to be followed, but they usually are.

Who pays for the funeral?

The Will may contain details of a pre-paid funeral plan. These have become increasingly popular as they allow you to plan your funeral in advance as well as safeguarding against inflation on costs.

If a pre-paid plan is not in place then generally, banks or building societies will release funds from the deceased's account to pay the funeral before a Grant of Probate is obtained. However, they prefer to deal with Solicitors in this respect and they will need to see the funeral bill and the death certificate before releasing money generally direct to the funeral director.

If there is not enough money in the deceased's estate to pay for the funeral, then the person arranging the funeral is primarily responsible. In such a case, family may be eligible for a Social Fund Funeral Payment.



Banner Jones dealt with the grant of probate for my late wife's estate and associated matters. The process was very professional yet sympathetic as well. Matters proceeded smoothly and I was extremely glad to have their services after seeing what was involved in the forms to fill in. It took much of the stress out of the process- for which I was very grateful. I was kept informed throughout.

I have used Banner Jones before, and will have no hesitation in returning - indeed I plan to do so to re-write my Will after my wife's death. I would have no hesitation in recommending them and indeed have done so. Fees were very reasonable.

Step 4 – Inform People/Companies

As well as informing friends and family, the Executor/Personal Representative will also need to cancel/change insurance details, subscriptions, agreements, payments, direct debits etc. and close accounts.

The Government's 'Tell Us Once' Service

In the past, you may have had to spend hours on the phone, often having to repeat the same information to different departments and organisations. The 'Tell Us Once' service makes it simpler for you to notify and cancel a number of government services. The Registrar will explain the 'Tell us Once' service when you register the death. They will either complete the service with you or give you a unique reference number so that you can use the service yourself online or by phone.

If the person registering the death is not an Executor, they must pass on the reference to the Executor. This will avoid letters being sent by the government agencies to the wrong people.

Comprehensive (but not exhaustive) Checklist

('Tell Us Once' will inform those with an asterisk*)

- | | |
|--|---|
| <input type="checkbox"/> Relatives and friends | <input type="checkbox"/> Credit card providers/store cards |
| <input type="checkbox"/> Employer | <input type="checkbox"/> Utility Companies |
| <input type="checkbox"/> School | <input type="checkbox"/> TV/Internet companies |
| <input type="checkbox"/> Solicitor/accountant | <input type="checkbox"/> Royal Mail |
| <input type="checkbox"/> Landlord or Local Authority if they rented their property | <input type="checkbox"/> Clubs, trade unions and associations |
| <input type="checkbox"/> Any private agency providing home help | <input type="checkbox"/> Church or regular place of worship |
| <input type="checkbox"/> Insurance companies | <input type="checkbox"/> Social groups |
| <input type="checkbox"/> Pension providers/life insurance companies | <input type="checkbox"/> Dentist |
| <input type="checkbox"/> Bank/building society | <input type="checkbox"/> *The local council |
| <input type="checkbox"/> Investment provider/share registrars | <input type="checkbox"/> *National Insurance Contributions Office |
| <input type="checkbox"/> Mortgage provider | <input type="checkbox"/> *HM Revenue and Customs (HMRC) |
| <input type="checkbox"/> Hire purchase or loan companies | <input type="checkbox"/> *UK Passport Agency |
| | <input type="checkbox"/> *DVLA |
| | <input type="checkbox"/> *Department for Work and Pensions (DWP) |

Step 5 – Value the Estate



The Executor of the Will or administrator of the estate is responsible for obtaining an Estate Valuation.

What is Included in the Estate Value?

Estate Valuation includes all the value of all the assets and liabilities of the person who died at the date of their death. It will include calculating the value of the house and any other properties owned by the person who died and their contents. It will also include the balance of any bank and building society accounts, savings, investments, bonds, pensions, life insurance policies, stock and shares, debts and even gifts made in the last seven years.

These may include the following:

- Money held in financial institutions - bank accounts
- Property and land
- Businesses
- Investments – stocks, shares, ISAs etc.
- Personal items – jewellery, musical instruments, antiques, cars etc.
- Contents of home
- Money payable on death from a pension
- Life insurance payments paid on death
- Loans made by the deceased to another person
- Trust funds
- Debts outstanding at the date of death including credit cards, mortgage, loans, utility bills etc.
- Funeral expenses including flowers and Wake/funeral tea

Value any Joint Owned Assets

The executor or administrator will need to find out what assets the person who died owned with someone else and how they were owned.

The rules for valuing jointly owned assets, such as property, bank accounts, jewellery or painting, are different depending on whether they were owned as 'joint tenants' or 'tenants in common' in shares.

Joint Tenants

Where a property is owned as joint tenants, the asset will pass automatically to the surviving joint owner(s) when one of them dies.

However, the share of the property owned by the deceased must still be valued in the Estate Valuation and inheritance tax may be payable on that share.

The method of valuation of a share will depend upon who is the co-owner and the type of asset.

Our lawyers will be able to advise and undertake the calculations for you.

Tenants in Common

The rules are different for co-owners holding as tenants in common in shares.

- The share will not automatically pass to the surviving co-owner.
- The beneficiary of that share will be determined by the terms of the deceased's will or the rules of intestacy.
- The share will need to be legally transferred to the person entitled.



All staff, legal representatives and receptionists during face to face and telephone communications were most considerate and empathetic to me while I was coping with a stressful time in my life. The legal advice and guidance that I received was top class and matters were worked out in a most professional manner enabling me to trust all outcomes. I would certainly return to Banner Jones should I need further legal advice and would recommend them firm to family and friends.



Step 6 – Calculate Inheritance Tax

Inheritance Tax can be complex and the rules do change regularly. The best way to ensure that you pay the correct amount on the estate is to seek professional advice.

Will I need to Pay Inheritance Tax?

To find out if there is any inheritance tax to pay, you need to prepare an estate valuation as at the date of death of the person.

Currently Inheritance Tax is payable on death at the rate of 40% on the value of the net assets over £325,000. The first £325,000 is called the Nil Rate Band because although it is taxable to Inheritance Tax, it is taxed at 0%. Not everyone will have the full (or any of the) £325,000 allowance available because they may have made gifts or transfers during their lifetime.

If the deceased was in a marriage or registered civil partnership, they may have left everything free of IHT to their spouse/partner not using the Nil Rate Band. On the second death, the unused Nil Rate Band can be transferred for the benefit of the 2nd estate increasing the nil rate allowance to up to £650,000.

It may be also be possible to claim a Residence Nil Rate Band if a property owned and occupied by the deceased passes to direct descendants.

Your legal adviser will be advise upon the sum that can be claimed.

Complete an Inheritance Tax Form

Even if you think there is no tax to pay, you may need to complete an Inheritance Tax return.

We can advise if a return is required and if needed help you complete the paperwork if you do not wish to access the forms online.





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Step 7 – Apply for Probate

To be able to administer the estate, you may need to apply for probate.

What is Probate?

A Grant of Probate is Court order issued by the Probate Registry confirming the validity of the Will and authorising the executors to proceed with the administration. If there is no Will, an application is made for personal representatives to be appointed to administer the estate in accordance with Rules of Intestacy. The Probate Registry will issue a Grant of Letters of Administration. Both are often called 'The Grant'.

Dealing with 'Probate' or 'Administering the Estate' are general terms for all the legal and financial processes involved in dealing with the estate left by someone after their death. The estate includes assets, such as property, investments, savings, pensions and possessions after deducting any liabilities such as loan, credit cards and bills.

A Will left by the deceased will include instructions on how they wish their estate to be distributed amongst friends and family or charities. If there is no Will, then Rules of Intestacy will set out who is entitled to apply for the Grant and who is entitled to benefit from the estate. It is the responsibility of the Executors or Personal Representatives to handle the matter directly themselves or appoint a solicitor to administer the estate for them.

When to Apply for Probate

Unless all the assets are owned jointly with someone else and pass to them automatically, you will need to complete the Probate process before you can access them and pay the estate out.

When you obtain the value of an asset in the Estate, you will be advised whether or not the organisation requires a grant before they will release funds.

Where there is a property, a grant will always be required to sell or transfer it. For other assets, particularly life insurance policies, bonds, stocks and shares and bank/building society accounts with more than £5,000, then the Executors/Personal Representatives will usually need to produce a grant.



Exceptional service; professional but friendly. Felt at ease and relaxed when given explanation of the matter being dealt with at a very sad time.

How to apply for a Grant

The executors or personal representatives can make the application themselves or appoint experienced and qualified Solicitors and Probate Practitioners such as ourselves to make the application on their behalf.

Although many applications are now made online, some applications must be sent by post to the Probate Registry. Your legal adviser will determine which type of application is required

Experienced Solicitor - Unless the handling of the estate is anticipated to be straightforward, it is highly advisable to consult a Probate Solicitor. With our Fixed Fee promise after discussing the case with you we will fix your fee for our probate assistance so you know exactly what you will pay from the start. Contact our specialist Probate Team to find out more.

Personal Application - You can apply for probate online if you are the executor of the Will and:

- The person who died lived permanently in England or Wales or was planning to return there.
- You have the original will and death certificate (or interim death certificate) from the coroner.
- You have reported the value of the estate to HMRC.

Personal Applications (DIY) vs Experienced Solicitor

It is possible to deal with probate yourself, providing you're familiar with the legal process and confident completing all the required tasks. DIY probate is time consuming and the work involved can be complex.

Dealing with probate yourself carries a level of risk, because you can be held personally financially liable if you make any mistakes. For these reasons, many people choose to instruct a probate solicitor to carry out this work for them.



Step 8 – Collect & Distribute the Remaining Assets



Whatever is left of the estate, once all debts and taxes are paid, needs to be distributed in accordance with the Will or, if there is no Will, the intestacy rules.

How to Manage and Distribute the Assets

It is important that Executors or Legal Personal Representatives keep estate funds in a separate Account from their own money. If Banner Jones are instructed to administer the estate, all funds would be paid into our separate Client Account.

- When the Grant is issued, sealed copies can be produced to financial organisations together with withdrawal authorities to close accounts and encash the investments.
- The Executor or legal personal representative will remain responsible for the payment of a deceased's debts (up to the total value of the estate). Please ask us for further information about how a Statutory Notice may provide some protection for you.
- Properties can be placed on the market for sale at this point. Our residential property teams will be happy to assist in the conveyancing for you.
- The Will may include a specific gift of the asset – for example, a property, its contents or stocks and shares. In such a case the asset will be transferred to the Beneficiary.

- If the Will contains trusts then assets may need to be transferred to trustees to comply with the terms of the trust and protect the beneficiaries. The trust will also need to be registered with HM Revenue & Customs through their Trust Registration Service.
- Whatever is left of the estate, once all debts and taxes are paid needs to be distributed.
- The executor must follow the terms of the Will. If there is no Will, the Legal Personal Representative must comply with the rules of Intestacy.
- A set of accounts should be prepared and supplied to all residuary beneficiaries setting out details of all the assets and debts in the estate and how the balance is being shared between the beneficiaries entitled.

What if there is no Will?

If there isn't a will, the estate is distributed under the 'rules of intestacy'. If all the beneficiaries entitled agree, it may be possible to vary the distribution as they wish.

If the deceased was married or in a registered civil partnership with an estate worth £270,000 or less, everything will go to the surviving husband, wife or civil partner.

If the deceased was not married or in a registered civil partnership, a surviving partner will not be entitled to benefit from the estate.

If the estate is worth more than £270,000 or there is no surviving spouse or registered civil partner, other relatives will be entitled. We can advise and check entitlement through the deceased's family tree.

People who are not entitled under the Intestacy Rules, may however be able to make a claim under the Inheritance (Provision for Family and Dependents) Act 1975. There are time limits so early legal advice is recommended.



**We
know**

...and understand how difficult it can be to lose a loved one and we would like to help you.

We offer two options for Probate.

1. Grant of Probate only
2. Full estate administration (including Grant of Probate)

Our specialist wills and probate team are always available for a chat to help you decide which solution may be suitable for you and your family.

0330 108 0366

www.bannerjones.co.uk/probate



Any legal fees can generally be paid out of the estate.