



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.

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- 2** Register the Death
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.....
- 8** Apply for Probate (if needed)
.....
- 9** Collect & Distribute Remaining Assets
.....

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Step 1 – Obtain a Medical Certificate



Firstly, you will need to obtain a Medical Certificate signed by a Doctor, listing the cause of death. There is no charge for a Medical Certificate.

If the death occurred at home

If the death occurred at home, you will need to contact the family doctor at the local GP surgery. The GP will normally visit the house and if the death was expected, they will then issue The Medical Certificate. If the person did not have a GP or you do not know the name of the GP, you should call an ambulance instead.

If the death occurred at hospital or a care home

If the death occurs in a hospital or a care home, the staff will contact the person named by the deceased as the next of kin and the hospital doctor or the care home GP will issue the Medical Certificate.

Unexpected death

If the death was unexpected, then it may need referring to a coroner for them to investigate further. This could potentially lead to the coroner calling for a post-mortem, or inquest in order to find out the cause of death, which may cause a delay in obtaining the Medical Certificate. If you have any concerns about this, please do not hesitate to [contact us](#).

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Step 2 – Register The Death



The death needs to be registered within five days, at the Register Office closest to where your loved one passed away, by a relative, a person present at the time of death or the person arranging the funeral.

What you will need

Registration can be completed over the phone or at a registry office. It is useful to have the Medical Certificate, NHS Number and, if possible, any identification documents for the person that you have access to; such as a passport, driving licence, birth certificate, etc. The Death Certificate and accompanying documents will then be sent by post or provided in person.

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. We would advise that you also purchase one or two extra copies just in case, as many of the organisations you will be dealing with going forward will not accept photocopies.
- **Certificate for Cremation or Burial Slip** – Commonly referred to as the “Green Form”. You can use this slip to begin arranging the funeral, as it will be required by the Funeral Director.
- **BD8 - Registration of Notification of Death – DWP** – You might not need this if you are offered the [‘Tell Us Once’ service](#) to notify the Government organisations of the death. The Registrar will be able to tell you whether this is available in your area.



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Step 3 – 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 with [Certainty](#).

The Will should list the Executors who will be responsible for administering the estate.

Once the Will is located

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

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 estate. They will be tasked with collecting up all the money, property, possessions and other assets, paying off any debts and inheritance tax, and distributing the estate to the beneficiaries.

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.



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.

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) 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 or for appointing a Solicitor to handle this for them.

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
- Dealing with any business/farm ownership or interests
- Distributing monies to all beneficiaries





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Step 4 – 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 nearest relatives and if not by a close friend. 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 plan was not in place then generally, banks or building societies will enable you to pay the funeral account from the deceased's funds without obtaining a Grant of Probate. However, they prefer generally to deal with Solicitors in this respect and they do need to see the funeral bill and the death certificate before releasing monies from the deceased's accounts. If there is not enough money in the deceased's estate to pay for the funeral, then the family maybe 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.

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Step 5 – Inform People/Companies

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

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 now makes it simpler for you to register the death of a loved one and notify and cancel a number of services. A registrar will explain the 'Tell Us Once' service when you register the death. They will either complete the 'Tell Us Once' service with you or give you a unique reference number so you can use the service yourself online or by phone.

If the person registering the death is not an executor they should pass on the references to the executor in order to avoid letters being sent by Government agencies notified 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"/> Utility Companies |
| <input type="checkbox"/> Employer | <input type="checkbox"/> TV/Internet companies |
| <input type="checkbox"/> School | <input type="checkbox"/> Royal Mail |
| <input type="checkbox"/> Solicitor/accountant | <input type="checkbox"/> Clubs, trade unions and associations |
| <input type="checkbox"/> Landlord or Local Authority if they rented their property | <input type="checkbox"/> Church or regular place of worship |
| <input type="checkbox"/> Any private agency providing home help | <input type="checkbox"/> Social groups |
| <input type="checkbox"/> Insurance companies | <input type="checkbox"/> Dentist |
| <input type="checkbox"/> Pension providers/life insurance companies | <input type="checkbox"/> *The local council |
| <input type="checkbox"/> Bank/building society | <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"/> Credit card providers/store cards | <input type="checkbox"/> *DVLA |
| | <input type="checkbox"/> *Department for Work and Pensions (DWP) |

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Step 6 – Value the Estate



The executor of the Will or administrator of the estate is usually responsible doing 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 year.

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

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.



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Step 7 – Calculate Inheritance Tax

Inheritance Tax can be complex and the rules do change regularly, so the best way to ensure that you mitigate the amount of tax payable 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 value the money, property and possessions ('estate') of the person who's died.

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 from this 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 and to create a combined nil rate allowance of £650,000.

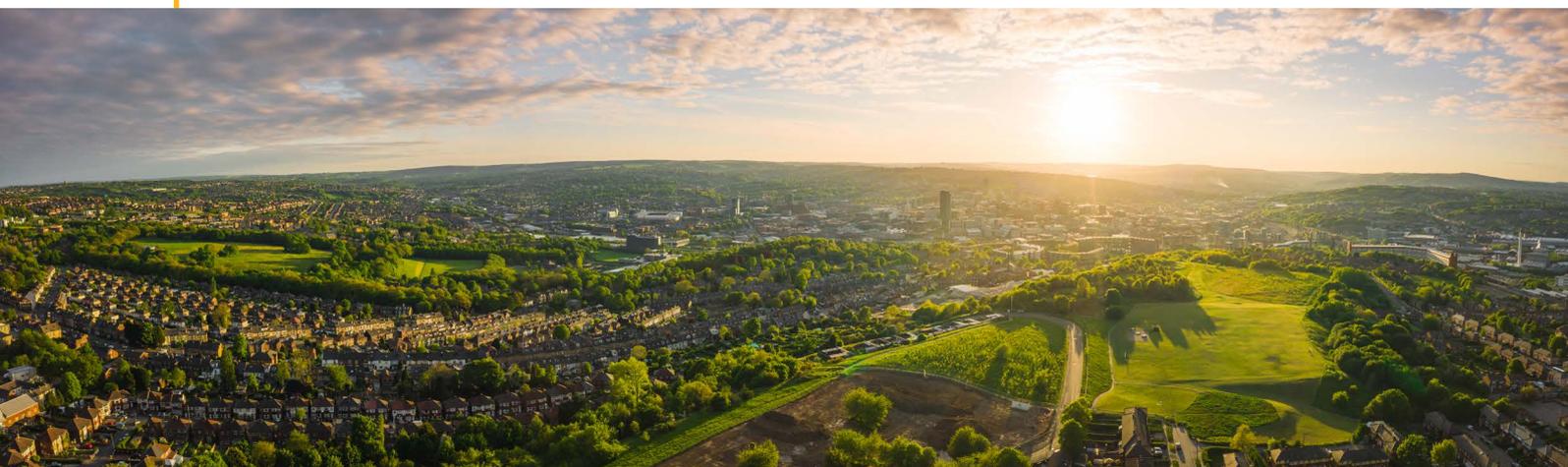
It may be also be possible to claim a Residence Nil Rate Band if a property owned and occupied by the deceased passes to direct descendants.

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 8 – Apply for Probate

To be able to administer the wishes set out in a Will you may need to apply for probate (technically known as applying for a Grant of Probate or the granting of probate).

What is Probate?

‘Probate’ is the general term for all the various legal and financial processes involved in dealing with the ‘estate’ left by someone after death. The estate includes assets, such as property, investments, savings, pensions and possessions and also any liabilities such as loans, credit cards and bills.

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 the Estate, you will be advised whether or not the organisation requires a grant of probate before they will release funds.

If the deceased had assets worth over £5,000, life insurance policies, bonds, stocks and shares or a property then the Executors will usually need to produce a grant of probate. If there is no will, the persons entitled to be appointed as personal representatives will need to apply for Letters of Administration instead, which is very similar.

Obtain a ‘Grant of Probate’

In order to begin the process, you will need to obtain a ‘Grant of Probate’. This is a Court order, which will appoint one or more people as ‘Personal Representatives’ granting them the authority to deal with the estate. The Personal Representatives can either handle the matter directly themselves, or appoint a solicitor to administer the estate for them.

In most cases there will be a Will left by the deceased, leaving instructions on how they wish for the estate to be distributed amongst friends and family. It is the responsibility of the Personal Representatives (or their solicitor) to carry out these wishes.

An application is made to the Probate Registry for a ‘Grant of Probate’ or if there is no Will a ‘Grant of Letters of Administration’ (both often called ‘The Grant’). This is a Court order which confirms the appointment of the Executors of the will or appoints the legal Personal Representatives granting them the authority to deal with the estate.

How to Complete Probate

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 Wills and 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 Wills and 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.

Please take a look at our [Online Probate Guide](#) that gives you an overview of some of the complexities involved in the process.



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Step 9 – 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 your 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 will follow the terms of the Will if there is one or comply with the rules of intestacy if there is no Will.
- 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 wasn't married or in a registered civil partnership, the surviving partner will not automatically get a share of 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/wills-probate



Any legal fees can be paid for from the estate.