



Oliver Fisher Solicitors

Bereavement

Guide

We understand that dealing with the Estate of a loved one can be upsetting, stressful and often confusing. This guide aims to help you through the process by explaining the essential steps you can take following the death and providing you with useful information to make the task more manageable.



Our solicitors and trained legal staff are able to help you to deal with all, or part, of the Estate administration process if you require assistance. We provide a flexible, sensitive and helpful approach to dealing with your loved one's affairs after death. For more information and help with dealing with an Estate, please contact us:

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Registering the death

The death must be registered with the Registrar for Births, Deaths & Marriages, ideally within 5 days from the date of death. If the death is being investigated by a coroner, you must obtain the coroner's permission first.

Who can register the death?

- A relative;
 - A person who was present at the death;
 - A hospital administrator, if the person died in hospital;
 - The person arranging the funeral.
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What do I need?

- The **medical certificate** (this can usually be obtained from a hospital or nursing home (if relevant) or their registered GP).

Make an appointment with the Registry Office in the area where the death took place. Take with you the deceased's:

- Birth certificate;
 - A copy of their council tax bill;
 - Driver's license (if they had one);
 - Any marriage or civil partnership certificates if applicable;
 - NHS medical card;
 - Passport;
 - Proof of address eg. utility bill or bank statement.
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What will happen at the appointment?

A Registrar will see you and ask for the following:

- The person's full name;
- Any names they used previously (eg. maiden names);
- Their date and place of birth;
- Their last known address;
- Their occupation;
- Full name, date of birth and occupation of any spouses or civil partners;
- Whether they were receiving any State Pension or other benefits.

The Registrar will use this information to create the Death Certificate.



Registering the death

The Registrar will give you:

- **A certificate for Burial or Cremation** (also known as the ‘green form’)
This gives permission for the burial or cremation to take place—you must give this to the funeral directors.
- **A certificate of Registration of Death**
If the deceased was receiving a State Pension or other benefits, you may need to complete this. The Registrar will provide you with a pre-paid envelope so that you know where to send it.

“Tell Us Once” Service

Most Registrars provide the ‘Tell Us Once’ service, in which they use the information provided to tell government organisations, such as the DWP and HM Revenue & Customs, about the death so that you do not have to. The Registrar will tell you if the service is available in your particular area. To use the ‘Tell Us Once’ service you will need the deceased’s:

- Date of birth;
- National Insurance number;
- Driver’s license number (if applicable);
- Passport number;
- Details of any benefits or pensions they were receiving;
- Details of any local council services they were receiving, such as a Blue Badge;
- The next of kin’s name and address;
- Contact details of the people dealing with the Estate (known as the Executors or Administrators).

What next?

If the deceased left a Will you should inform the person holding it about the death. Ask them if there were any specific funeral wishes left in the Will before making arrangements, so that you can make sure the deceased’s funeral wishes are carried out.



Obtaining the Grant of Probate or Letters of Administration

What is a Grant of Probate/Grant of Letters of Administration?

A Grant of Probate or Letters of Administration is the document which gives authority to deal with a deceased person's Estate.

Generally you will need a Grant before you can deal with the Estate, although sometimes banks and building societies will allow the Executors/Administrators to withdraw the deceased's funds without a Grant. However each bank has its own threshold, so check with the individual banks and building societies to find out if they require proof of the Grant. If they do not need the Grant, you may be able to deal with the Estate without having to apply for the Grant at all.

Where the deceased appointed Executors in their Will who are willing and able to act, they should apply for a Grant of Probate. If the person did not appoint Executors, or if none of the Executors are willing or able to act, a Grant of Letters of Administration is required and the next of kin should apply to be the Administrator.

How do I apply for a Grant?

To apply for a Grant, you need to complete:

- **A Probate application form 'PA1'** which can be found on the government's website;
- **An Inheritance Tax return**, either form IHT205 or IHT400 depending on the size of the Estate;

You should send these documents to the Probate Registry, along with the original Will (if applicable), two loose-leaf copies (if applicable), an original death certificate and a cheque for their fee of £215 + 50p per official copy of the Grant.

What next?

The Probate Registry will send you the sealed Grant of Probate or Letters of Administration (and official copies, if requested) which will allow the Executors or Administrators to deal with the Estate.



Inheritance Tax

Inheritance tax may be payable to HM Revenue & Customs if the Estate is worth more than £325,000 (as at May 2019), but note that the threshold can change in the future.

If the deceased gave gifts (other than certain types, eg. gifts to spouses/civil partners or charities) during the last 7 years of their life, these may also be liable to Inheritance tax depending on the amounts. If the person died before 6th April 2009, a different threshold will apply.

How is it calculated?

Inheritance tax is calculated at 40% on any amount above the threshold. So for example, if an Estate is worth £500,000 and assuming the £325,000 threshold applies, the Inheritance tax due will be 40% of £175,000 (the remainder). This means that the Inheritance tax due will be £70,000. If the deceased left a proportion of their Estate to charity, the Inheritance tax payable may be less.

Residence Nil Rate Band

You may have heard of the Residence Nil Rate Band (RNRB). This is an additional tax-free threshold available to people leaving residential property to 'direct descendants'. This includes children, grandchildren and stepchildren but there are strict rules in place which should be adhered to.

The RNRB is £150,000 in the tax year 2019/20 and is rising to £175,000 in the tax year 2020/21 and will be capped at this figure.



Inheritance Tax continued

Relief from Inheritance Tax

If the entire Estate is left to a surviving spouse/civil partner, it will be exempt from Inheritance Tax as long as the surviving spouse or civil partner lives in the UK permanently. The unused threshold can then be transferred to the surviving spouse/civil partner. For example, if a wife inherits all of her husband's Estate, her new threshold will be £650,000 (which is double the current threshold of £325,000).

In the same way, any unused Residence Nil Rate Band (RNRB) can also be transferred to a surviving spouse or civil partner.

Reliefs may also be available on business/agricultural property, woodland areas and heritage assets and to members of the armed forces, emergency services or humanitarian aid workers.

Who pays it and when?

Inheritance tax is usually paid out of the deceased's Estate by the Executors or Administrators.

This should be done within 6 months from the date of death in order to avoid having to pay interest. Payments can also be made by instalments over 10 years, where the tax is due on certain types of property.

Inheritance tax can be a complex issue, especially if the Estate is very large, and it is important to ensure that the correct amount of Inheritance tax is paid to HM Revenue & Customs . If you are unsure about how much Inheritance tax is due on an Estate, please seek legal advice.



Starting the Estate Administration

Collecting the Assets

Once you obtain the Grant of Probate or Letters of Administration, you should send sealed copies to the companies which hold the deceased's assets eg. banks, building societies, insurance companies. If the deceased owned anything valuable (eg. property, classic cars, jewellery, antiques) you should arrange for a professional valuation to be obtained before selling these.

Check with their utility providers, such as gas and electricity companies, whether there is any money due to the Estate from their account as at the date of death.

Paying the Debts

Once all of the deceased's assets have been collected, any debts must be paid. This will include the funeral bill, any care home fees, outstanding tax owed, overpayments in pensions or other benefits and utility bills.

If you are unsure of the extent of the deceased's debts, you can publish 'Section 27 Notices' in the Gazette and other relevant papers, calling for any debtors to come forward within 2 months and declare their debts. This can be useful if, for example, the deceased owned a business and you are unsure if they owed money to suppliers.

Distributing the Estate

After all the debts have been paid the Estate can be distributed according to the terms of the Will.

If there was no Will the deceased is said to have died 'intestate' and the 'rules of intestacy' should be followed. These are the statutory rules which set out the order of relatives who should receive the Estate and how much they should receive. They may also be applied where the deceased left a Will but did not deal with all of their Estate in the Will, to identify who the remainder of the Estate should go to. These rules are set out later on in this guide.



The Intestacy Rules

The following rules apply where the deceased did not leave a valid Will, or did not deal with all of their Estate in the Will. In this scenario, the estate is distributed as follows:

1. Surviving spouse/civil partner but no children:

All of the Estate goes to the surviving spouse/civil partner.

2. Surviving spouse/civil partner & children:

The spouse/civil partner will receive the first £250,000 **and** all the deceased's personal effects **and** a life interest in half of the remainder. The other half of the remainder will be shared between the surviving children.

3. No surviving spouse/civil partner but children:

The Estate will be divided equally between the children. If there were children who attained 18 or married but died during the deceased's lifetime and left children, their share will be divided between those children.

4. No spouse/civil partner and no children—the following order applies:

(1) Any surviving parents;

(2) Whole-blood brothers and sisters; if there were brothers or sisters who attained 18 or married, but died during the deceased's lifetime, their share will be divided between any children they left;

(3) Half-blood brothers or sisters; or between their own children if they attained 18 or married, but died during the deceased's lifetime;

(4) Surviving grandparents;

(5) Whole-blood aunts or uncles; or between their own children if they attained 18 or married, but died during the deceased's lifetime.

(6) Half-blood aunts or uncles; or between their own children if they attained 18 or married, but died during the deceased's lifetime.

(7) None of the above; the Estate will go to the 'Crown' or the state (known as Bona Vacantia).



Checklist

If you are feeling overwhelmed and unsure where to start, this checklist can be a useful tool when dealing with your loved one's affairs:

- Register the death
- Advise friends/family of the death
- Arrange the funeral according to any funeral wishes
- Advise others of the funeral time & date
- Ensure any properties are secure
- Inform any insurance companies of the death
- Ensure service meters are read and disconnected
- Ensure water is switched off
- Ensure valuables are safely stored
- Redirect mail to an appropriate address
- Notify any landlord of the death
- Terminate any lease/tenancy
- Arrange for property to be cleared
- Inform 'Tell Us Once' service
- Return passport to Passport Office
- Notify DVLA & return any driver's licenses (if applicable)
- Notify car insurance

If the Estate is particularly complex, or you would like assistance with any part of the probate process, our solicitors and trained legal staff can help.

We can assist as much or as little as you would like—whether you just need help with obtaining a Grant or if you need help from start to finish, our staff are happy to help. Please contact our office on 0203 219 0145 to speak to a member of our Probate Department.