

What to do after someone dies

Commonly known as 'Probate'



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Unless you wish to do so, generally there is no need to start dealing with someone's financial affairs until after the funeral.

Following a death, priorities are to register the death, to organise the funeral, secure the person's home if they lived alone and to check whether they made a will. You should obtain sufficient copies of the death certificate for each financial institution (such as banks and investment companies). Also, check whether they had a funeral plan.

At the appropriate time all organisations with whom the person had financial dealings, whether assets or liabilities, must be notified that the individual has passed away. If there is a will, this will be done by the executors or their legal advisers. Executors can take on their responsibilities for the person who has died immediately after their death. Executors should consult with the beneficiaries to ensure that they act in accordance with the wishes of the beneficiaries. Executors do not have to accept the role if they do not wish to.



In many cases the executors will need to obtain a grant of probate. 'Probate' is the Court document confirming who the legally appointed executors are.

Executors need to be aware that there are some time constraints, such as regarding payment of Inheritance Tax, if a deed of variation is to be signed or if the will creates a trust which is not required by the beneficiaries.

Executors should carefully consider how to proceed if there are business or agricultural assets or assets outside England and Wales.

The process of administering an estate can include any or all of the following tasks for the executors or their legal advisers:

- Gathering together all relevant paperwork
- Contacting all appropriate organisations in order to establish the assets and liabilities as at the time the person passed away and their values (including accrued income)
- Considering 'creditors' and 'claimants'
- Completing a tax return to the date of death
- Completing the forms for HM Revenue and Customs (HMRC) that are required before the grant of probate can be applied for
- If appropriate lodging detailed Inheritance Tax forms with HMRC, making appropriate claims for Inheritance Tax allowances and reliefs (including reliefs for the home and any transferable allowance from a spouse or civil partner who predeceased), and communicating with HMRC until it closes its file
- Obtaining the grant of probate
- Collecting in all assets and paying all liabilities and bills
- Considering whether a deed of variation or an appropriation (for capital gains tax purposes) is required
- Paying all capital gains tax and income tax for the period of administration and providing beneficiaries with appropriate tax certificates
- Adopting a neutral position if the will is contested
- Producing estate accounts and distributing the estate (including making interim payments where appropriate)

After seeing all relevant papers, we will produce terms of business and we will quote the maximum fees we will charge based on the information to hand: the eventual charge could be less, but will not be more unless your instructions change. Experience has shown us that it is not financially beneficial for executors and their legal advisers to share responsibilities. Our advice is that executors should either instruct legal advisers to assist with the whole process, or undertake the estate administration themselves and instruct legal advisers to do specific tasks (such as to obtain the

grant of probate or sell the property). If there are unknown elements in the estate we may not be able to quote a maximum or 'capped' fee. If so, we will agree our method of charging with the executors and update them regularly about the value of the work done.

If you are likely to obtain professional assistance please speak with us before contacting financial institutions (such as banks), to help avoid delays and extra costs.

A M DAVIES

— Solicitors —

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