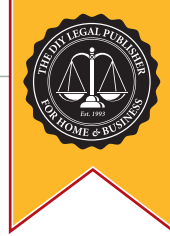


LAWPACK



Self-Help Kit

What to do following a death

Guidance Manual

by Cruse Bereavement Care



This is an excerpt from Lawpack's *What To Do Following A Death Kit*.

To find out more about funeral arrangements, probate, intestacy and legal matters after someone dies, [click here](#).

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Loose leaf documents:

- Checklist – what to do following a death
- Looking after yourself and other people
- Funerals – some ideas and issues

Finance and property

After someone has died, arrangements will need to be made to deal with his or her money and property and to make provision for anyone affected by the death. You may be reading this because you have lost someone very close and are having to cope with all the practicalities as well as your grief, or perhaps you are less closely affected but are trying to help a friend. One of the aims of this Kit is to help you with the basic essential tasks to meet your own needs, to comply with the law and to follow the wishes of the person who has died.

There are often a lot of legal and administrative procedures, such as registering the death, possibly dealing with an inquest, the funeral and burial or cremation and then dealing with various organisations (e.g. the Department for Work and Pensions, Jobcentre Plus, banks, building societies and insurance companies). Here are some helpful tips on how to deal with the administrative paperwork:

- If the task seems overwhelming, it may be worthwhile to enlist the help of a friend or family member.
- Read the paperwork carefully and ask for help if you are unsure.
- Keep a copy of the paperwork and documentation you send to organisations. Only send original documents where required, otherwise use copies.
- Be aware of the time limits where these are specified.

State benefits

- If the person who has died was receiving a state benefit, you need to notify the Department for Work and Pensions and any other relevant department of the death.
- If the person who has died and you, as his or her surviving husband, wife or civil partner (called the 'survivor' in the paragraphs later in this Kit), were both receiving the basic state pension when your partner died, then in some circumstances you may be able to use the National Insurance contributions from the person who has died to get extra basic state pension. For further information, contact the Department for Work and Pensions.
- If the person who has died was receiving a State Earnings Related Pension Scheme (called a 'SERPS' pension), then you, as the 'survivor', may inherit some or all of the SERPS pension of the person who has died.
- If your partner has died, your financial circumstances will have changed with your partner's death so you may now be entitled to state benefits or have increased entitlement if you were receiving benefits prior to the death of your partner.
- You may be able to receive help with the funeral expenses from the Social Security system, called the 'Social Fund' (see page 30).

- There is also a leaflet entitled '*If you are Widowed*', obtainable from your local Jobcentre Plus (or you can download it from the web enablement section of Lawpack's website – see page 4 on how to register), which may be helpful.

The following state bereavement benefits and payments are also available:

- **Bereavement Payment**

To receive a Bereavement Payment (which is currently £2,000) to assist with the immediate expenses after a death you, as the claimant, must be:

- under state pension age (currently 60 for women and 65 for men); or
- over state pension age and your late husband, wife or civil partner was not entitled to a state pension, based on his or her own contributions when he or she died.

- **Bereavement Allowance**

This benefit may be payable to you, as a surviving widow or widower or civil partner, if you are aged 45 or over but below state pension age when your husband, wife or civil partner died.

The amount of benefit is determined by the National Insurance contributions of your partner who has died and your age when he or she died.

If an entitlement is established, then the amount of the allowance is dependent on your age. If you are 55 or over and less than pension age, then the full rate of the Bereavement Allowance is payable. If you are between 45 and 55, then the amount payable is less than the full rate.

The allowance is payable from the date of death for a maximum of 52 weeks. If you, as a widow, widower or civil partner, become entitled to the state pension before the end of the 52-week period, then the Bereavement Allowance ceases.

- **Widowed Parent's Allowance**

There are two circumstances when you may be eligible for a Widowed Parent's Allowance:

1. If you are under pension age and receiving Child Benefit for one or more children and your deceased husband, wife or civil partner died on or after 9 April 2001; or
2. You are expecting a child by your late husband or as the result of artificial insemination or in vitro fertilisation.

- **War Widow's Pension**

There may be help if you are a relative of a war pensioner. Information is available from the Veterans Agency (see www.veteransagency.org.uk).

- **Guardian's Allowance**

You may be eligible for this allowance if you are bringing up someone else's child and are entitled to Child Benefit. Normally both the child's parents must be dead. However, there are exceptions.

For more information on benefits, if you are over pension age, contact the Pension Service on 0845 606 0265. If you are under pension age, contact Jobcentre Plus on 0845 608 8602.

Bank accounts

It is important to notify the bank/building society or any institution holding funds belonging to the person who has died as soon as possible (a template letter for this purpose can be found on page 53). The template letter outlines a range of circumstances which apply, as it is vital to notify the bank in the following circumstances:

- If the account was in the sole name of the person who has died, but you are dependent on access to it so that you can live from day to day and pay your bills. You may also need funds to pay for the funeral. Do make sure that your bank knows this, if this is the case. Banks vary in terms of the extent to which they are prepared to release funds before probate has been granted.
- If the account was in the joint names of yourself and the person who has died.
- If you have been appointed as executor in the Will of the person who has died (in which case you will normally need to open an executor's bank account).

It is also important to check immediately whether the original death certificate is required, or whether a certified copy will be accepted.

Housing

If the person who has died was in rented accommodation and a surviving relative wants to take up the tenancy, then the administrator or executor of the estate (see page 36 for more information on these roles) will need to negotiate with the landlord (council or housing society or other landlord) straight away. If the transfer of the tenancy is possible, then the appropriate documents should be requested from the landlord for signature.

If you have any queries about housing issues, you may wish to contact Shelter (www.shelter.org.uk; tel. 020 8800 4444), which has a search by area facility, or the Citizens' Advice Bureau.

If you were living with the person who has died, you may be thinking about moving after the bereavement. You may want to take some time thinking over this decision, and if the property is rented, do check your tenancy status (or ask someone to do it for you) as soon as you can.



Empty house management order

An empty house management order is designed to ensure that councils are able to house people in properties that appear to be permanently empty. Inherited properties are exempt while probate is resolved, however long that takes and then for a further six months. In most cases, the property would continue to be exempt, for example, if it was sold, rented out or used as a holiday home.

Dealing with the estate

In order to deal with the money and property of the person who has died (usually referred to as his or her 'estate'), which includes identifying his or her assets, paying any debts, and making sure that the remaining money or property is correctly distributed, a legal document is required. This is called a 'Grant of Representation' (often called 'probate' in England & Wales, and Northern Ireland, or 'Confirmation' in Scotland).

The Grant of Representation will be required by many financial institutions in order to release the funds of the person who has died. It will also be required to sell or transfer a property that was not held jointly but was held in the sole name of the person who has died.

The process of obtaining the Grant involves applying to the Probate Registry, which involves providing paper information and attending an interview at a local Registry. If the person who has died has appointed one or more executors in his or her Will to deal with the estate, then they will apply for the Grant. If no executors were appointed or no Will was made, then the court, if necessary, will appoint one or more administrators to deal with the estate. Executors and administrators are also known as 'personal representatives'.

There are three types of Grant of Representation:

1. Grant of Probate

If a Will has been made, it is likely that one or more executors will have been named. It is their responsibility to ensure that the wishes of the person who has died are carried out. These are often called the 'provisions' of the Will and they may concern the funeral arrangements, or the distribution of money and property. In this case, it is the executor(s) who will receive the Grant.

2. Grant of Letters of Administration (with a Will)

This applies when there is a Will, but there is no executor named, or the executors are unwilling or unable to act. The Grant will be issued to the administrators.

3. Grant of Letters of Administration

This applies when there is no Will or the Will is invalid and it will be issued to the administrators.

The same official forms are used for all three types of Grant of Representation.

A Grant may not be required if the estate is of a very modest value, or if the whole estate is held in joint names and passes automatically to the surviving joint owner. You may want to talk to the Probate and Inheritance Tax Helpline (0845 302 0900) or consult a solicitor to find out whether a Grant will be applicable in your particular circumstance.

Applying for a Grant of Representation

You may decide to do this yourself or to use a solicitor or other service. There are a range of services offered by banks and by a number of online providers. The Law

Society (www.lawsociety.org.uk) has a searchable facility making it possible to locate a Wills and probate specialist in your area.

Even if you decide to employ a solicitor or other agent to make the application for you, leaflet PA2 '*How to Obtain Probate – A Guide for the Applicant Acting Without a Solicitor*' (available at www.hmcourts-service.gov.uk/courtfinder/forms/pa2_0206.pdf) provides a useful summary.

Who may apply for a Grant of Representation?

- The named executor in a Will.
- If there are none, or they are unable or unwilling to apply, any person named in the Will to whom the estate has been given.
- If there is no Will, the next of kin of the person who has died in the following order of priority:
 - Husband, wife or civil partner (a partnership between two people of the same sex registered according to the Civil Partnership Act 2004). Common law partners are not entitled to apply.
 - Sons or daughters, or their children, if any sons or daughters have already died. Stepchildren cannot apply.
 - Parents.
 - Brothers or sisters, or their children, if any brothers or sisters have already died.
 - Grandparents.
 - Uncles or aunts, or their children if any uncles or aunts have already died.
- Applicants must be 18 or over.

Grants of Representation in the countries of the UK

In England & Wales, the Probate Service is responsible (www.hmcourts-service.gov.uk/cms/wills.htm). For Scotland, information is available from the nearest Sheriff Court. For Northern Ireland, information may be obtained from the Probate and Matrimonial Office in Belfast on 029 072 4678, or Londonderry on 028 7136 3448.

The forms required

To obtain a Grant of Representation, you must complete various forms and send them to the Probate Registry where you want to be interviewed. A summary of the forms required in the countries of the UK is available at www.direct.gov.uk/en/RightsandResponsibilities/death/Preparation/DG_10029716.

The forms referred to in this section are those for England & Wales. These may be downloaded from the Probate Service (at www.hmcourts-service.gov.uk/cms/wills.htm) and from HM Revenue & Customs (Capital Taxes) (www.hmrc.gov.uk/cto). They are as follows:

- **PA1 – The Probate Application Form** and its Guidance Notes (PA1a) which can be obtained from your nearest Probate Registry or from the Probate and Inheritance Tax Helpline (0845 302 0900).
- **IHT205 – Short Form for Personal Applicants** and its instruction booklet (Form IHT206). IHT205 applies to estates where Inheritance Tax is unlikely in England & Wales, and Northern Ireland. In Scotland, the relevant form is Form C1.

To complete this form, you will need a range of financial information, including:

- Bank accounts and investments
- Insurance policies
- Property owned in the sole name of the person who has died
- Debts including mortgages

The form leads you through the process so that you can identify whether Inheritance Tax is due. If this is the case, you will need to complete **Form IHT200 (Inheritance Tax Account)** to provide the information for assessment. This form applies in all the countries of the UK.

- **Form IHT200 – Inheritance Tax Account.** If you are applying for a Grant without a solicitor, you can ask HM Revenue & Customs (Capital Taxes) to work out the tax for you.

To get your Inheritance Tax assessed, you need to fill in Form IHT200. You must then complete Form D18 (Probate Summary), which applies in England & Wales and Northern Ireland (in Scotland, Form C1 applies). You must send Form D18 to the Probate Registry (but not Form IHT200), along with all the applicable forms (PA1) and other papers (e.g. a certified copy (not photocopy) of the death certificate, and the **original** Will) specified in the booklet PA2. The Probate Registry will then notify you of your interview date and will return Form D18 to you with your appointment letter. You then need to send Form IHT200 and Form D18, with any other documents required to HM Revenue & Customs (Capital Taxes) who will tell you whether any tax is due.

If there is tax to pay, HM Revenue & Customs will send you a notification of the amount owed. Once you have paid the right amount of tax, HM Revenue & Customs will endorse Form D18 and return it to the Probate Registry, who will issue the Grant once you have attended an interview and your application for probate has been completed. If HM Revenue & Customs work out that there is no tax to pay, they will notify the relevant probate authority, by endorsing Form D18, and the Probate Registry will then issue the Grant once the application process has been finalised.

It is impossible to say exactly how long it may take to obtain probate. For straightforward applications, you are likely to be notified of an interview date within ten working days of receipt of your application and the interview is likely to take place within a month of your application. Your application will need to be checked (which may involve answering some questions about the information you have provided) before an interview can be arranged. The interview will provide you with an opportunity to ask questions and to confirm the accuracy of the information you have given.

The Grant of Representation will usually be given within ten days of your interview, but it is impossible to be specific about this, as circumstances vary widely. If you are using a solicitor or other agent, he or she will carry out these processes for you.

Once the Grant has been obtained, you can then show it to any person or organisation holding the deceased's property or money so that the asset can be sold, transferred or released.

The aims of the executor

The executor's (or administrator's) aims are to:

1. Identify and value the assets of the person who has died.
2. Identify the liabilities of the person who has died.
3. Distribute the legacies which are specified in the Will and then distribute the balance of the estate.

Whether or not you apply for probate, it is worth bearing in mind the following points:

- If the house is unoccupied, it should be securely locked and the house and contents insured.
- Executors should open an executor's bank account into which they will eventually deposit the proceeds of the deceased's assets and from which they will pay the bills of the person who has died.
- During the administration of the estate, the executors must keep track of every financial transaction, no matter how small.
- Once a thorough valuation of the assets and liabilities of the person who has died is completed, at least some of the Inheritance Tax owing must be paid before the Grant of Representation will be issued. In most cases, Inheritance Tax must be paid within six months from the end of the month in which the death occurs, otherwise interest is charged on the amount owing. If you have queries about the calculation of Inheritance Tax and the payment process, you may want to telephone the Inheritance Tax Helpline (on 0845 302 0900). It may be possible to pay Inheritance Tax in instalments or for the executor(s) to obtain a bank loan, repayable eventually from the estate, if immediate payment would otherwise be difficult.

Obtaining details of the assets and debts of the person who has died

As a first step, the personal representatives should list those assets which they know, based on personal observation or what they have found in the papers of the person who has died. The papers will include, for example, bank statements, cheque books, outstanding bills, share certificates and insurance documentation. They should then send notification of the death to financial institutions, such as banks, building societies, insurance companies and the deceased's accountant. The letters to the banks and building societies should request information about each account. Also,

personal representatives should ask for a list of deeds and other documents held on behalf of the person who has died; for example, life policies as at the date of death.

Personal representatives do not have to wait to receive the Grant of Representation to begin this notification and inventory, but a copy must be sent to each institution when it is received from the Probate Registry (in England & Wales), the Probate and Matrimonial Office (in Northern Ireland), or the Commissary Department of the Sheriff Court concerned (in Scotland).

The goal is to get in writing the value of all the assets and debts as at the time of death. The information must be provided on the probate or Confirmation forms. Even if an asset is left as a legacy to a beneficiary, it must be listed and accounted for in the inventory.

Valuing assets of the person who has died

Checklist of assets that will often occur

- House or flat
- Bank account
- Stocks and shares
- Businesses
- Car
- Jewellery
- Works of art
- Other possessions
- National savings
- Premium bonds
- Outstanding salary or pension payments
- Life insurance and pension policies
- Taxes and bills
- Social security payments
- Foreign property – there are special arrangements relating to probate if the person who died was living or domiciled abroad. Details may be found at www.direct.gov.uk/en/Rightsandresponsibilities/Death/Preparation/DG_10029716

If you are acting as a personal representative, you should clearly identify where assets are jointly owned and note them on the forms. Generally, the value reported should be the price the asset would fetch if it was sold on the open market on the date of death. You may wish to seek a professional valuation for some of these assets. Before probate is granted, the valuation will be checked by the District Valuer on behalf of HM Revenue & Customs.

Valuing debts of the person who has died

The following is a checklist of debts that the person who has died may owe. Information on any of these liabilities that apply should be included in Section F of Form IHT200.

If necessary, it is generally possible to request a delay in the payment of debts until the Grant has been obtained and funds are available. Personal representatives do not have to pay them out of their own income or savings.

Checklist of debts that will often occur

- Water rates
- Telephone bill
- Electricity bill
- Gas bill
- Loan or overdraft
- Credit card bills
- Mail order catalogue bill
- Rent arrears
- Hire purchase payments
- Debts owed by the person who has died to other individuals
- Outstanding Income Tax and Capital Gains Tax – the principles of taxation which apply are broadly similar across all UK countries. Help Sheet IR 282, *'Deaths, Personal Representatives and Legatees'*, is available from www.hmrc.gov.uk, or from HM Revenue & Customs' offices
- Reasonable funeral expenses

The personal representatives should respond to bills and contact potential creditors by providing formal notification of the death, which will usually require a copy of the death certificate.

Tax

The person administering the estate needs to inform HM Revenue & Customs about the death so that HM Revenue & Customs can assess whether or not the person who has died has paid too much or too little tax. If there is a refund of tax, then HM Revenue & Customs will pay it to the estate of the person who has died. If there is tax due, then it will be a debt on the estate and will need to be paid by the estate.

Most gifts made more than seven years before death are exempt from Inheritance Tax. However, there are specific provisions relating to trusts and companies and it is advisable to check these provisions with HM Revenue & Customs. Further information is available at www.direct.gov.uk/en/Moneytaxandbenefits/taxes/InheritanceTaxEstatesandTrusts/DG_4016736.

Distribution of gifts and legacies from the estate

Once the assets have been identified and all the debts, expenses and taxes have been paid, the personal representative must distribute what is left in the estate to the beneficiaries.

- If there is a valid Will, then the distribution of the residuary estate, after receiving all of the assets and paying the debts, will be according to the wishes of the person who has died, as expressed in the Will.
- If there is no Will or no valid Will, then the distribution of the rest of the estate will be in accordance with the intestacy rules – see below.

Intestacy rules

When the person who dies does not leave a Will, or has a Will that is invalid, he or she has died ‘intestate’.

In these circumstances, in England & Wales, distribution of the estate is determined by the Administration of Estates Act 1924, and in Northern Ireland, by the Administration of Estates Act (Northern Ireland) 1955. In Scotland, distribution of the estate is determined by the Succession (Scotland) Act of 1964, as amended.

The rules on inheritance where someone has died intestate are complex and you may wish to seek advice and further information (e.g. from the Citizens’ Advice Bureau). Summaries of the intestacy rules applying in the countries of the UK may be found at www.hmrc.gov.uk/manuals/ihmanual/IHTM12000.htm#4.

If you are using a solicitor or other agent, he or she will be able to deal with this for you.

Possessions of the person who has died

If any of the possessions, such as a car, are subject to a hire purchase or rental agreement, the personal representatives will need to contact the company concerned.

For personal possessions the Will may specify who should receive some or all of the possessions. If there is no Will, then the disposal of the possessions will be subject to the intestacy rules.

You may find that you or others who will receive the possessions may find it difficult to accept them. This may be because the possessions are intricately linked to grieving after bereavement.

Personal and company pensions

- If the person who has died was receiving a pension from an occupational scheme (i.e. a work-related scheme) or a personal pension scheme, then you should contact the administrator of the pension scheme so that the pension can be cancelled. Also, the administrator would determine if there is any under or over payment and if there is any pension payable to any widow or widower or partner or children.
- If the person was not already receiving a pension from an occupational scheme or a personal pension scheme, but had made contributions to such a scheme,

then he or she may have a 'deferred pension', which means that the pension has been earned but has not yet been drawn. You will need to contact the administrator of the pension scheme to check the current position.

Financial planning in changed circumstances after the death

After someone dies there may be a drastic change in your income and it may take some time to finalise all your revised income ('incomings') and revised expenditure ('outgoings'). Financial planning and control and budgeting are important in both the short term and long term.

If you have any financial worries (e.g. about paying the mortgage or rent, or paying heating and lighting), it is advisable to contact the creditors (to whom money is owed) as soon as possible. Some creditors may give you the opportunity to reschedule payments. Your local Citizens' Advice Bureau or other relevant agency will be able to assist.

The ability to pay the bills is affected not only by the incomings and outgoings but is also affected by cash flow, i.e. when bills are due to be paid and when income (benefits, pensions, salary, etc.) will be received.

Some people may find it helpful to have an accountant or financial adviser to assist them in financial planning. However, do be careful about the costs of those services and the benefits they may produce.