

# WHEN SOMEONE DIES

## ***Introduction***

Bereavement is never an easy experience for any of us. There is a lot to do in a short space of time. People are upset, and small problems loom large. Situations take on emotional overtones and sadly feelings sometimes run high.

This fact sheet tries to help smooth this difficult path for you. In it we describe the more important things that need to be done when someone dies. We shall cover a wide range of topics, but we shall deal more specifically with money matters. This sheet describes the situation in England and Wales. Some procedures are different in Scotland.

## ***The Doctor's Certificate***

Death at home - the family doctor issues a certificate giving the cause of death. If there is to be a cremation, another certificate must also be issued and signed by two doctors, who must be unrelated professionally. There is sometimes a slight delay at this stage to get these signatures, but your undertaker will take care of this.

Death in hospital - the hospital authorities will issue the "cause of death" certificate to the Registration Office local to the hospital.

Unexpected death - a post-mortem may be ordered, followed by a Coroner's inquest if there is still doubt about the cause of death. A coroner will also be involved where death occurs within 24 hours of admission to hospital, or during anaesthetic or operation, or soon afterwards, or from certain industrial diseases, or if the deceased person was getting a War Pension. In these cases the coroner will then notify the Registrar and issue an order for burial or a cremation certificate, as appropriate. Only then can the registration of death proceed.

It is at this early stage you will need to remember any particular wishes expressed by the deceased person - perhaps that their body is to be used for medical research, or that organs are to be available for transplant. Prompt action will be needed to meet such wishes.

## ***Registering the death***

Normally this must be done within five days of death. Many Registrars now operate on an appointment system and you may need to telephone first to be given a time to attend. In all cases the death has to be registered in person by a member of the family or, failing that, by someone with sufficient knowledge to provide the Registrar with the following information:

- ❖ the full names, plus maiden name if a married woman
- ❖ date and place of birth
- ❖ most recent occupation
- ❖ if a married woman, her husband's full names and occupation.

You will need to take with you the "cause of death" certificate issued by the doctor, hospital, or coroner. The Registrar will also ask you for either the deceased person's National Health Service number, or their Medical Card which has to be handed in. You will be given, free of charge, a white certificate of death for DSS purposes, and a green disposal certificate for burial or cremation, which the undertaker will require.

You will also need further copies of the full entry of death for the bank, building society, insurance company, etc., and for the application for Grant of Probate or Letters of Administration-see later in this fact sheet. There is a fee for each of these copies.

## ***The funeral***

This is a very personal matter for the family who may well know of particular wishes expressed by the deceased person, either in their Will or during their lifetime. For example:

- ❖ burial or cremation?
- ❖ a particular type of service?
- ❖ flowers, or donations to a charity instead?

You will find the undertaker is very sympathetic and helpful, and will be able to guide you when you are not sure what you should do.

The cost of the funeral will, of course, depend on many factors, but the undertaker will give you an estimate when he knows what you want. If you wish, he will often be prepared to make other payments for you, such as the minister's and organist's fees, and any doctor's charges for certificates, cemetery charges, newspaper announcements, etc. These will then be added to his bill so that you settle everything with one cheque. However, the undertaker may make a charge for doing this.

Remember that if there is a burial any existing family grave will have to be opened and the undertaker will therefore need the grave ownership document - called a grave grant. Make sure you know where this is, and arrange for the cemetery to transfer the ownership to another member of the family after the funeral. This person then assumes responsibility for the future of the grave.

If there is no family grave, a suitable plot of ground in a local cemetery will have to be purchased.

Later on you will have to make a decision about a headstone and/or a suitable inscription on the grave.

### ***DSS Benefits/Pensions***

An early place to visit should be your local DSS office. You need to take with you the white death certificate given to you by the Registrar.

Find out what you are entitled to - obviously this will depend on your individual circumstances. If you are on a low income and will have difficulty paying for the funeral, there may be temporary help for you from the Social Fund.

### ***Getting some money***

One problem for some people is how to get the money to meet immediate needs and expenses while the legal formalities are going through. If the person who has died was still working, there may be a grant or an ex-gratia payment to the next-of-kin from the employer. Or, there may be an insurance policy where payment can be made at once, so it is worth checking. Another immediate source of money is a joint bank or building society account, and we deal more specifically with this later on. If all these fail, other members of the family may have to give temporary financial help. As a last, and rather expensive, resort, the bank can probably help with an overdraft or loan.

### ***Paying the Bills***

The funeral account, and any other bills which cover the period in which the death occurred, are normally payable out of the money which comes into the estate. If Inheritance Tax has to be paid - see later - these bills can be taken off the total value of the assets of the estate. This then reduces the amount of Inheritance Tax payable.

If the outstanding bills exceed the amount of the money available to meet them, you should seek advice from your financial adviser, or the Citizens Advice Bureau may be able to help you. The situation is quite complex, and there is an order of priority laid down by law for the payment of debts in cases like this.

### ***If there is a Will***

Once the first rush of activity is over, there are some other matters to attend to. It is most important to establish quickly whether there is a Will or not, and if there is, to find it.

If there is a Will it is the job of the executor(s) named in it to apply for the Grant of Probate - that is, to obtain the Probate Court's authority to carry out its terms.

A word of advice here - never, ever, attach anything to a Will or Codicil in any way. If you find a Will or Codicil with something attached to it, leave it as it is so that the Probate authorities can see it. Do not remove it.

There is often no need for a Grant of Probate where the total amount of money left by a deceased person is £5000 or less. In this case ask the bank/building society/insurance company/National Savings - as the case may be - what the formalities are for paying the money to the beneficiary named in the Will. You may find it only involves completing a simple form.

### ***Assets held in joint names***

It is quite common these days to find that the bank account, or some investments, or the house, are held in the joint names of two or more people, for example husband and wife.

This usually simplifies matters when one of them dies because it is often possible to transfer the asset into the sole name of the surviving owner, just by showing a copy of the Death Certificate, without waiting for the Grant of Probate to be issued. This has the added benefit that it gives the surviving holder access to the account or the investment immediately.

### ***Applying for Probate***

In all other cases it will be necessary to obtain a Grant of Probate. If a solicitor, bank, or other financial adviser, or the Public Trust Office, is appointed executor in the Will, they will follow their own procedures and the family will not normally be actively involved at this stage. You should, however, ask them to keep you fully informed on what they are doing, so that you can check there is no delay and everything is going smoothly.

When a member of the family, or a friend, is the executor, the Grant of Probate can often be obtained in simple cases by personal application. This will save expense, but on the other hand, it does involve the executor(s) in some time-consuming correspondence and paperwork. In other cases, especially if the person who has died had a business, or several properties, or numerous investments, the executor(s) will probably need to enlist the help of a solicitor to share the work. The solicitor is then entitled to make a charge for the work done.

If you do decide to make a personal application, you should first contact your local Probate Office (address in the local telephone directory under 'Probate Registry'), or ring or call at the Probate Personal Application Department. They will send you a set of forms with instructions.

### ***The Probate Forms***

There are two to complete:

- ❖ Form PA1- the Probate application form
- ❖ Either Form IHT 44 or Form IHT 205 (depending on the size of the estate) - a list of all the deceased person's assets and debts, including any property or money held jointly with another person.

Before Form IHT 44 or IHT 205 can be filled in, the executor must obtain full details of the whole estate. This involves writing to all the organisations where the deceased person had money or savings, and asking for a valuation where appropriate.

In this fact sheet we can only give the broadest guidelines on what to include in the Form IHT 44 or IHT 205, and if you are in any doubt ask your bank or other financial adviser.

These are the more common assets and how to value them:-

- ❖ bank, building society or National Savings accounts: Ask for details of the balance at the date of death, plus any accrued interest. If it is a cheque account don't forget to allow for cheques drawn before death but not cleared through the account until later.
- ❖ insurance policies: Ask the insurance company how much is payable, and to whom. Some insurance benefits are payable direct to named recipients and not into the estate. This can give them a useful source of ready money without waiting for the Probate formalities.

- ❖ the house: Ask for an estimated sale price from a local estate agent. If Inheritance Tax is payable you may have to get an estate agent to give you a more accurate valuation later, for which a fee will be payable. If the house is to be sold soon after the date of death, the gross sale price will be accepted as the Probate value.
- ❖ house contents, including any jewellery, and the car: Estimate the second-hand sale value, not the full replacement value. As with the house, unless the contents are being sold, a more formal valuation may be necessary later, if Inheritance Tax is payable in the estate.
- ❖ company stocks and shares, and Government Securities ("Gilts"): You will need to refer to a copy of the Stock Exchange Daily Official List to work out the value for the date on which the death occurred. This is obtainable from the Stock Exchange, London, EC2N 1HP. For every stock this list quotes two prices at the close of trading- a lower price at which you can sell, and a higher price at which you can buy. The value for Probate is always one quarter of the difference between these two prices, added to the lower. So, if the Official List quotes 200p-208p, the Probate price is 202p. You then multiply this by the number of shares, or amount of stock, to arrive at the value of the deceased person's holding.
- ❖ unit trusts: The daily papers quote two prices. The lower is the one you use for Probate, multiplied by the number of units held.
- ❖ a business: This will be either as a sole trader, or a partnership, or will take the form of shares in a private company. Whichever it is you will need the help of the Accountants. Where Inheritance Tax is payable, the valuation of the business at the date of death will be a question of negotiation with the Inland Revenue.
- ❖ pensions and other employment benefits: Ask the company for details as to how much is payable, and to whom. Some of these benefits may be payable to named recipients and not into the estate.
- ❖ foreign assets: Foreign investments or property overseas can be very complex, and you will need to seek professional help. Foreign death duties may have to be paid.

Follow the instructions provided with the Probate forms. Normally a personal application for Probate involves one visit to the Probate Registry by the executor(s) in person, and a Court fee is payable based on the value of the estate. The rest of the work can be done by correspondence.

You will find it helpful to ask for a suitable number of copies of the Grant of Probate, sealed by the Probate Court, for use when dealing with the various assets of the estate.

### ***Inheritance Tax***

In some cases Inheritance Tax on freehold property and on a business can be paid by instalments, but on all other assets it has to be paid when the executor is applying for the Grant of Probate. This can sometimes create a problem because it is not possible to deal with the assets of the estate until the Probate is received. Therefore it may be necessary to seek temporary overdraft facilities from the bank to meet the Inheritance Tax, unless there are other resources such as money in a joint bank account.

### ***Income Tax***

Check with your local Tax Office how your change in circumstances will affect your Income Tax position. Are there further Allowances you can claim? There are helpful leaflets available from Tax Offices.

It will be one of the jobs of the executor or administrator of the estate to settle the deceased person's Income Tax and Capital Gains Tax affairs up to the date of death. This will probably mean filling in a Tax Return with details of their income since the last time a Return was sent in.

### ***If there is no Will***

Someone, usually a member of the family, will have to apply for a Grant of Letters of Administration, and then distribute the estate of the deceased person to the relatives who are legally entitled to it. The distribution of the estate of someone who dies "intestate" can be complex, especially if it is large and there is a widow or widower and children. We strongly recommend that you seek professional help if you find yourself having to deal with such a situation.

As with a Grant of Probate, applying for a Grant of Letters of Administration can be done either through a solicitor or by personal application. The forms and procedures are similar to those described earlier, but certain additional information is required where there is no Will. You will find it helpful to ask for a suitable number of copies of the Grant of Letters of Administration, sealed by the Probate Court, for use later.

### ***Live-in Partners***

The present law gives no automatic rights of inheritance to unmarried couples living together, even though the relationship is a long-term one. Same sex partners however do have specific rights gained under recent legislation. If your partner dies and there is no Will, you should seek legal advice as soon as possible - you may well have to make a formal claim for any benefit you feel you should receive. You may also need to take steps to protect the rights of any children of the partnership.

In this situation, making a Will becomes particularly relevant and hopefully it can be plainly seen the need to arrange a Will in these circumstances.

### ***Divorce***

In recent years there have been major changes in the legislation affecting the rights of divorced persons to act as executor or administrator, and to receive bequests under the Will of their ex-partner. Get advice before doing anything if you are in this position.

### ***When the Grant of Probate or Letters of Administration is received***

The Grant is an important document. It should never be destroyed and should not be sent around by post unnecessarily. When no longer needed it should be kept in a safe place for future reference.

First the copies sealed by the Probate Court should be sent to all the organisations where the deceased person held money, as listed in the Form IHT 44 or Form IHT 205 - see above. The executor(s) will also need to ask for the necessary forms to complete in order to encash the various assets, or to transfer them to the beneficiary or beneficiaries named in the Will, as the case may be.

With certain types of asset you will need to seek the help of your bank, accountant or other financial adviser. For example, if you have to deal with holdings of stocks and shares quoted on the Stock Exchange there are special forms and procedures. Be careful if there are stocks or shares in companies whose registered office is in Scotland - different forms apply in these cases.

### ***The house***

If there is a house to be sold or transferred to another member of the family, you will need the help of a solicitor for the conveyancing work.

A word of advice if you are selling - remember that the executor or administrator is acting on behalf of the beneficiaries of the estate and not on their own account. Therefore they do not have the same unrestricted freedom of action as they would if they were selling their own property.

It is a legal requirement that the executor or administrator shall get the best price, and this may mean enlisting the help of an estate agent or similar qualified person, rather than selling through a private advertisement.

### ***Final adjustment for Inheritance Tax***

In estates where Inheritance Tax had to be paid, the executor or administrator should obtain a the Chartered Insurance Institute Form 30 from the Capital Taxes Office and complete it and send it back to them. This is done when all the bills have been paid and all the assets accounted for. When filling in the Form 30 the executor or administrator must list any changes to the information previously given on the Form IHT 44 or Form IHT 205. For example, a house may have been sold for more or less than was expected.

The Capital Taxes Office will then adjust the Inheritance Tax upwards or downwards to fit in with the final valuation of the estate, and will then confirm that the required amount of Inheritance Tax has been paid.

It is not necessary to send in a Form 30 if Inheritance Tax did not have to be paid.

## ***Final statement of account***

The procedure for dealing with the estate is completed when the executor or administrator prepares a 'statement of account'. This sets out how the estate has been distributed.

## ***Power of Attorney***

A recent useful innovation is an "Enduring Power of Attorney", which allows someone else to make decisions and handle money if an elderly person becomes unable to look after their own affairs. The form can be completed at any time but it will only come into effect if and when it is necessary. Further information can be obtained from The Public Trust Office or from a solicitor.

## ***Look before you leap***

We end this fact sheet with a final word of advice. Bereavement can bring with it major changes for many people. It quite often happens that someone acts hastily while they are still in a state of shock. For example, a widow may suddenly decide to sell the house and move away to an area she doesn't know and where she has few friends, simply to be nearer another member of the family.

People usually need stability at a time like this and it is not often that major decisions really have to be made on the spur of the moment. Take time to think carefully about all the implications before making any drastic changes, and try to carry on with life as normally as possible. Things often then fall into place later.

## ***Important Information***

Information is based on Braunton IFA Ltd's interpretation and cannot be held liable for any errors or omissions. Any information is by no means implied as specific recommendations and you are strongly advised to take independent advice before proceeding with an investment or other policy and legal advice before commencing any form of trust. Past performance is no guarantee of future returns. The returns from stock market investments can rise as well as fall particularly in the short term and if you surrender early you may not get back your original investment. Your home may be repossessed if you do not keep up repayments on your mortgage.

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