

# What to do when someone dies



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Legal advice tailored for you

## Introduction

When a loved one dies, it is a very emotional time and it can be difficult to know where to turn. Within this guide we have answered many of the most common questions people ask when someone has died, together with offering advice on the steps that need to be taken.

We hope that the information given in this guide makes things a little easier for you.

First steps .....	2
Medical research and organ donation .....	2
Securing the home and contents .....	2
Registering the death .....	3
Unexpected deaths .....	4
Arranging and paying for the funeral .....	5
Is there a will? .....	5
Is it necessary to instruct a solicitor? .....	6
The next step: gathering information .....	7
When can the estate be distributed? .....	8
Finalising the estate .....	8
Why choose Garden House? .....	9
Glossary .....	9
Checklists .....	10

If a word is in **bold** when it is first used in this guide, then its meaning is given in the glossary at the end.



## First steps

Within a few days after a death, someone will need to:

- make sure that the home and possessions of the person who has died are secure;
- register the death; and
- start arranging the funeral.

Family and friends can usually deal with most of the practical things that need to be done following a death. If there is no one to deal with matters, or there is someone but they feel unable to manage on their own, we are able to help.



## Medical research and organ donation

If you know that the person who has died wanted to leave their body for medical research, look for the relevant consent form. The form will have details of the research institution for you to contact.

The person may have donated their organs for transplant by signing the NHS Organ Donor Register. Donated organs have to be removed within 48 hours of death, so you should speak to the doctor responsible for the person as soon as possible.



## Securing the home and contents

If the person who has died lived alone, someone should go to their home as soon as possible and take the security precautions that would normally be taken when leaving your own home empty for a while. Examples include locking all doors and windows, stopping deliveries of papers and milk and moving valuable items so that passers-by cannot easily see them. It would be useful if you could also take meter readings whilst you are at the property.

If the person had a pet, make temporary arrangements for it to be looked after by family or friends or through an animal rescue charity.

All possessions that are in the home should remain there, as they will need to be valued in due course. However, if there are particularly valuable items which you believe may not be adequately insured, you should consider moving them to a more secure place after first consulting the **executors** or close relatives of the person who has died (or the person's solicitors).

You should look for papers relating to the insurance of the property and its contents, even if you do not have time to look for other important documents at this stage. You will need to telephone the insurers to inform them of the death and check that there is adequate buildings and contents cover in place; you should keep a note of your conversation and put it with the papers relating to the insurance.

If you know that the person who has died had a gun licence and kept firearms at the property, report the death to the police as soon as possible so that they can make arrangements for the guns to be kept safely.



## Registering the death

When someone dies, a doctor issues a medical certificate which states the cause of death. The death then needs to be recorded formally on the register of births, marriages and deaths within five days.

### *Who can register the death?*

Ideally it should be a relative, but if that is not possible then it can be done by the following people:

- someone who was present when the person died;
- someone representing the “occupier” of the building where the death occurred (for example, the warden of a block of sheltered flats or the manager of a residential home if that is where the person died);
- an official from the hospital (if the death took place in a hospital);
- anyone who has taken responsibility for arranging the funeral.

### *Where is the register office?*

The death must be registered at the register office for births, marriages and deaths for the district where the person died. If you do not know where this is, you can contact the local authority or visit the GOV.UK website. You should telephone the register office first to find out if you need to make an appointment.

### *What to take to the register office*

Whoever registers the death should take the medical certificate from the doctor, together with the following information relating to the person who has died:

- date and place of their death;
- their full name and any former names;
- their occupation;
- their last address;
- details of any state benefits they were receiving; and
- the name, date of birth and occupation of their spouse or civil partner (even if they have passed away).

### *Where to find the information you need*

If you do not know all the details you need for the **registrar**, you should be able to find them in documents such as the person’s birth certificate, marriage or civil partnership certificate and letters from **DWP**.

### *Death certificates*

Once the death has been formally registered, the registrar issues an official copy of the register called a certified copy death certificate.

You can obtain any number of certified copy death certificates, but you ideally want one copy for each organisation you need to notify (see the section below on who to inform about the death). It is sensible to also get one or two spare copies to save having to order additional copies later. The cost of each copy varies from one local authority to another, but can be claimed back from the estate in due course.

### *Certificate for burial or cremation*

The registrar also issues a 'certificate for burial or cremation'. This is a document which authorises a burial or cremation to take place, though you do not have to choose which at this stage. The certificate will need to be given to the funeral director responsible for handling the funeral.



### *Form relating to social security benefits*

The registrar will give you a certificate of registration of death (Form BD8) to complete. This is used to tell DWP of the death so that they can deal with the pension and benefits arrangements of the person who has died. You can complete this form yourself or ask either the **personal representatives** or their solicitors to deal with it.



## **Unexpected deaths**

A death is regarded as unexpected in any of the following circumstances:

- the person was not seen by a doctor in the 14 days before they died;
- the doctor does not know the cause of death and so cannot issue a medical certificate;
- the person died within 24 hours of being admitted to hospital or during an operation.

In these circumstances, the death is reported to the coroner. This is usually done by the doctor if one was called when the person died or by the police.

When a death is reported, the coroner usually arranges for a post mortem to establish the cause of death. If the death is from natural causes, the coroner notifies the registrar and the death is registered in the usual way and the funeral can go ahead.

However, if the cause of death is in doubt even after the post mortem, or the post mortem shows that death was not from natural causes then an inquest will be held. Sometimes, the coroner (instead of the registrar) will issue a burial or cremation certificate to enable the funeral to go ahead before the inquest is held. The coroner can also issue an interim death certificate, which can be used to give notice of the death until a final death certificate is issued after the inquest.

## Arranging and paying for the funeral

When you have the certificate for burial or cremation, you can start making arrangements for the funeral.

You should first look through the papers of the person who has died for anything relating to a pre-paid funeral plan. If you find that the person subscribed to a plan, contact the provider and they will tell you what to do. If there is no pre-paid plan, you can contact a funeral director of your choice and they will guide you through the process.

It is not essential to find out if there is a will before the funeral. However, it is recommended to locate it (or at least a copy) as soon as possible because the person may have expressed wishes about their funeral in their will, such as a wish to be cremated rather than buried. You are not legally obliged to follow these wishes, but relatives and friends usually prefer to do so.

### *Paying for the funeral*

By taking on the responsibility for arranging the funeral, you are also taking on the responsibility of finding a way to pay for it. If you pay the funeral expenses yourself, you will be entitled to reimbursement from the estate at a later date, provided that there are sufficient funds available.

Alternatively, there are other ways of paying for the funeral:

- Where the person had money in a bank or building society account, the bank or building society in question may be prepared to release funds early to pay the funeral expenses.
- If the person had a life insurance policy or pension, lump sum payments can sometimes be made very soon after a death. However, if possible, you should take advice before using lump sums of this type to pay funeral expenses as there may be a more tax-efficient way to use the money.
- If you are arranging a funeral for a partner or close relative and you are on a low income, you may be able to get a Funeral Payment from the government, but some or all of it may have to be repaid from the estate. For more information, visit the GOV.UK website.



## Is there a will?

If the person who has died made a will, you may be able to find the original or a copy in their home. Usually, if the will was prepared by a professional such as a solicitor, they will have the original in storage. If you find a copy of the will, the cover will usually have details of who it was prepared by so that you can contact them to obtain the original.



You should also take the following steps:

- If you know that the person used a particular firm of solicitors, contact them to check if they are storing a will.
- Ask the person's bank or building society if a will was deposited with them.
- Carry out a Certainty Will Search (the UK's National Will Register).
- Contact the Principal Registry of the Family Division (the Probate Registry) or a district registry close to you and ask if they are storing a will.

We are happy to provide any assistance you require in relation to these searches.

#### *If there is a will*

If you have managed to find a will, towards the beginning of the document it will usually say who the executors are. If you are appointed as an executor alongside somebody else, you will need to ensure that they are aware of the death. This is because all executors must usually act jointly.

If you are not appointed as an executor, you should make sure that the executors know about the death. You can then decide with them who is to register the death and arrange the funeral if this has not yet been done. If you have already registered the death and obtained copy death certificates, these should be given to the executors or to their solicitors together with all the other relevant paperwork.

#### *If there is no will*

If after you have carried out all of the recommended searches you have still not been able to find a will, then one or more of the person's closest relatives (spouse or civil partner, parent, child, sibling etc.) should take professional advice on who the **administrators** will be and the next steps that need to be taken. The estate will need to be dealt with in accordance with the **intestacy rules**.



### **Is it necessary to instruct a solicitor?**

The personal representatives of the estate may not always need the assistance of a solicitor, for example if the estate is small in value or very simple to deal with. However, they do need to be organised and will usually be required to devote quite a lot of time to deal with even a simple estate.

If there is a 'homemade' will, we recommend that the document is reviewed to make sure that it is legally valid before you start dealing with the estate. If there is a will that was prepared by a firm of solicitors or a will writing company, the personal representatives are not bound to use them for any assistance they require in relation to the estate.

We offer a range of services to suit the level of assistance required. For example, the personal representatives may wish to deal with most matters themselves and only require advice on certain aspects, or they may wish for us to take care of everything for them.

## The next step: gathering information

It is important to gather as much information as possible relating to the person's assets and any debts. This will typically include looking through the person's paperwork and asking friends and family.

If the person had a computer, they may have kept records in electronic form e.g. internet banking. If the relevant files can be found on the person's computer, they should be printed.

### *Who to inform about the death:*

- all banks and building societies where the person had an account;
- the person's mortgage company, if they had a mortgage;
- the person's landlord or local authority, if they were living in rented accommodation;
- all insurance companies the person had a policy with at the time of their death e.g. home insurer, life insurer, car insurer etc.;
- anyone to whom the person owed money e.g. credit card companies;
- any employer if the person was employed when they died;
- utility companies;
- broadband, phone and satellite TV providers;
- the Television Licensing Authority;
- suppliers of other regular services, such as gardening and cleaning;
- the person's accountant, if they had one;
- the Office of the Public Guardian, if the person had a registered power of attorney;
- the Court of Protection, if it had any involvement in the person's affairs;
- Royal Mail, if the person was living alone in a private home, as it can be useful to arrange for their post to be redirected. Redirecting to one of the personal representatives is best, since the post is likely to include information about the person's assets and debts.

You can choose to use the Tell Us Once service that enables you to report the death to most government organisations in one go. See the GOV.UK website for more information on how to do this. If you do not use Tell Us Once, you will need to notify the following organisations individually:

- HMRC regarding Income Tax and Capital Gains Tax, if applicable;
- DWP, if for some reason they have not already been informed;
- HM Passport Office, if the person had a passport as it should be returned for cancellation;
- the Driver and Vehicle Licensing Authority (DVLA), if applicable, to cancel the person's driving licence and/or request that the registration details of their vehicle(s) be amended;
- the local authority regarding Council Tax, removal from the electoral register and any Housing Benefit or blue badge.



## When can the estate be distributed?

Depending on the value of certain assets and how they were owned, it may be necessary to obtain a grant of representation before the assets can be sold or encashed. If payable, Inheritance Tax will need to be paid before the **grant of representation** can be obtained.

### *Paying bills before the estate is distributed*

Bank accounts in the person's sole name are usually frozen from the date the bank is informed of the death. This means that all direct debits, including those to utility providers, will be cancelled. If the person was responsible for paying the bills, other members of their household may be worried about how to manage financially between the date of death and when the estate is distributed.

There are various ways of dealing with this problem, for example:

- if a member of the household had a joint account with the person who has died, they can pay the bills from that account;
- it may be possible to borrow from a family member or from a bank;
- if the person had life insurance or was a member of a pension scheme, a lump sum may be payable soon after the death.

### *Jointly owned assets*

If the person owned an asset, such as a bank account or a property, as **joint tenants** with someone else, then from the date of the death ownership will pass automatically to the surviving owner. Joint accounts are not frozen and the surviving owner does not need a grant of representation or any authority from the personal representatives to access the funds. The bank however will still need to be informed of the death.



## Finalising the estate

The personal representatives have a duty to administer the estate and distribute it correctly, ensuring that all matters have been fully dealt with before paying any money to the beneficiaries. They must be sure that all debts have been paid, that there are no challenges regarding the validity of the will, that no claims are being made against the estate and that no unknown creditors can come forward in the future.



The personal representatives should also keep clear records and accounts for future reference in case any enquiries are raised at a later date.

## Why choose Garden House?

Our experience in probate and estate administration enables us to provide an all-round service tailored to your specific needs. Whether you choose to deal with certain aspects yourself or instruct us to take care of everything, we offer a flexible and understanding service to make things as easy as possible for you.

If you would like our assistance, it would be useful if you can bring the documents listed on the next page with you to our first meeting.



## Glossary

**Administrators:** People entitled to deal with the estate of a person who has died where there is no will or where the executors named in the will are unable or unwilling to act.

**DWP:** Department for Work and Pensions.

**Estate:** Everything that belonged to the person who has died.

**Executor:** A person appointed in a will to deal with the estate and carry out the terms of the will.

**Grant of representation:** A court issued document which authorises the personal representatives to deal with the person's estate. This may be referred to as a grant of probate or a grant of letters of administration.

**Intestacy rules:** Rules which determine who is entitled to inherit from the estate of someone who has died without making a will.

**Joint tenants:** A way of jointly owning property, whereby co-owners own the whole property together. If one co-owner dies the property automatically passes to the surviving owner(s). The other way of jointly owning property is as 'tenants in common', whereby each co-owner owns a share and when one dies their share passes under the terms of their will or the intestacy rules if there is no will.

**Personal representatives:** The people who have legal authority to deal with the estate of a person who has died, either administrators or executors.

**Registrar:** An official responsible for keeping the register of births, marriages and deaths.

## Checklists

### Information to keep at hand:

- full name of the person who has died and any former names
- their last address
- date and place of birth
- date and place of marriage or civil partnership
- national insurance number
- tax reference

### Documents to look for before registering the death:

- birth certificate
- marriage or civil partnership certificate
- death certificate of any deceased spouse or civil partner
- recent letter from DWP confirming state pension or benefit entitlement
- passport

### Documents to look for before the funeral:

- any papers relating to a pre-paid funeral plan
- the most recent will, or a copy of it
- any note regarding the person's funeral wishes

### Documents needed by the personal representatives or their solicitors:

- bank/building society account statements
- statements relating to savings and investments
- recent utility and any other household bills
- credit card statements and any personal loan agreements
- any share certificates, dividend vouchers and related paperwork
- insurance policies
- property deeds
- mortgage statements
- valuations, for example of jewellery, paintings or furniture
- any rental or hire purchase agreements
- any recent payslips, P60s and tax returns
- driving licence and vehicle registration certificate
- television licence
- any unpaid invoices



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