

Lovewell Blake

Different because you are

What to do when someone dies

A guide to the procedures
and practicalities

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Introduction

You will at some stage suffer the experience of a death in the family or of a friend or associate. This is a difficult time even before you start thinking that someone has to deal with the deceased's financial affairs. You may find yourself faced with the responsibility of dealing with their estate.

When you find yourself in this position, with so much to think about, you may be uncertain as to what you need to do, be aware:

- the death must be registered
- of who the executors are
- the assets must be safeguarded, dealt with correctly and subsequently distributed to the beneficiaries
- a grant of probate may have to be obtained
- tax may be payable.

It is hoped this guide will indicate the steps that have to be taken and help ease the process whether you are an executor, administrator or beneficiary. No two estates are the same, so what is explained in the following notes may not be applicable in every case. Please also be aware where we have referred to the law, this only applies to England and Wales.

Lovewell Blake may be able to help you in more areas than you might have realised.

Protecting assets

Make sure any now unoccupied property is secure. Move valuables out of sight. Whilst all possessions of the deceased person should strictly remain in place to be valued, consider moving any very valuable items to a different location if that is safer. Notify the provider of the buildings and contents insurance of the death, and ensure the cover continues and is adequate. Fulfil obligations required to maintain cover, such as regular visits to the property.

Registering the death

A death must be registered with the Registrar of Deaths within five days after the date of death.

If the death was not unexpected, the doctor will have provided a medical certificate showing the cause of death together with a note of how to register the death.

If the death was unexpected, then it will be reported to the coroner, this will usually be done by the doctor called after death. There may be a post mortem and sometimes an inquest is held.

The coroner will send a certificate to the Registrar of Deaths so that the death may be registered.

If the coroner is not involved, the death can be registered by:

- a relative
- someone present at the death even if not a relative
- someone who has taken responsibility for organising the funeral
- someone representing where the person died, for example, the manager of a residential home, the warden of a block of flats, or a hospital official

If you are not local to the registrar's office in the district of the deceased, you can make a declaration at any office and it will be forwarded to the relevant district.

To register the death, if available, you need to take:

- the medical certificate
- the deceased's birth certificate
- their marriage or civil partnership certificate
- details of the deceased's date and place of birth in the absence of the birth certificate
- details of the date of birth of their spouse or civil partner
- a note of the deceased's usual address
- details of their latest occupation
- their medical or NHS card or number
- details of any state benefits they were receiving

The registrar will provide:

- a certificate for burial or cremation ('Green Form')
- a form for state benefits ('Form BD8')
- copies of the death certificate
- details of the 'tell us once' service if it is available in the area. This enables you to report a death to most government organisations in one go

You should obtain a number of copies of the death certificate as it needs to be lodged with each separate institution with which the deceased person had an investment. Photocopies are not acceptable.

Lovewell Blake can help with identifying and contacting these institutions, to notify of the death and give instructions.

The funeral

Check the will if there is one, as it may specify the wishes of the deceased in relation to their funeral. The will is usually lodged with the deceased's solicitor, bank or other professional adviser, but may be with their personal papers. Lovewell Blake may have a copy.

Is there a funeral plan to cover some of the cost? As well as the funeral itself there may be the costs of formal notices or the cost of a memorial. Most banks or other financial institutions will agree to the payment of the funeral costs from a deceased person's account before probate, as long as there is a sufficient balance.

The will

The will appoints one or more executors to be responsible for putting into effect the wishes expressed in the will. If there is no will, administrators are appointed by the court to deal with the estate. Administrators are usually those entitled to the estate under the Rules of Intestacy, which take the place of a will. If an appointed executor has died or is unwilling or unable to act, then administrators are again appointed.

Legal ownership of all the deceased's assets passes immediately to the executors. If there is no will, ownership passes to the administrators when letters of administration have been issued. Obligations include:

- safeguarding all the assets
- collecting the assets
- paying liabilities including tax
- administering the estate in accordance with the law

Ascertaining details of the estate

The deceased's personal papers may need to be examined to ascertain what they owned. Their last tax return could be a very useful source of information.

The executors or administrators must obtain valuations of all assets owned by the deceased, including their property, personal possessions and investments.

Lovewell Blake may be able to assist with information gathering to ascertain what the deceased owned.

It is necessary to ascertain the value of each asset. This will be straightforward for bank and building society account balances, insurance policies, and quoted stocks and shares. In the case of unquoted shares, freehold or leasehold property, or furniture or jewellery, it may be appropriate to obtain a professional opinion as to value.

Lovewell Blake may be able to help with deciding whether to instruct an estate agent or other valuer or whether an informal valuation will be sufficient. We can prepare share valuations.

Details of any gifts made in the seven years before death must be established. This includes gifts of particular items as well as cash. Lovewell Blake may have information on file to assist.

Any outstanding bills or debts or other liabilities must be quantified.

The deceased's income tax affairs have to be brought up to date and income tax and capital gains tax payable at date of death quantified.

Lovewell Blake can prepare the tax return to date of death and quantify the tax liabilities arising.

All assets are 'frozen' until a grant of probate or letters of administration are obtained, except for the payment of funeral expenses already referred to, and inheritance tax, which will be covered later in this guide.

Keep receipts and details of all expenditure to be refunded later.

The grant of probate

Unless the estate is small, the executors or administrators will not be able to gain control of the assets without producing a grant of probate or letters of administration.

This is the legal confirmation of the validity of the will and the right of the persons to whom it is granted to deal with the estate. To obtain probate, the executors or administrators are required to:

- submit an application on oath to the Probate Registry
- file an inheritance tax return giving details and valuations of all assets and liabilities. HM Revenue & Customs (HMRC) may impose penalties for providing inaccurate information

Lovewell Blake can prepare the inheritance tax return and calculate the inheritance tax liability arising.

Inheritance tax

When the value of all assets less any liabilities is above the nil rate band, currently £325,000, there may be inheritance tax to pay. The value of gifts made during the last seven years and any interest in settlements can affect the calculation.

Any value passing to a surviving spouse, or to a charity, is exempt from inheritance tax.

Business property relief or agricultural property relief may be available to reduce the value of other assets, before calculating the inheritance tax arising.

Anything owed by the deceased such as household bills, mortgages, loans and funeral expenses are liabilities of the estate and are allowable deductions against inheritance tax.

Inheritance tax has to be paid six months after the end of the month of death, otherwise interest will be charged. The tax on any land and certain other assets may be deferred into ten annual instalments, but these instalments will still incur interest. Banks and other financial institutions are usually prepared to release funds from the deceased's accounts to pay inheritance tax before probate, if this is not possible, it may be necessary for the executors or administrators to arrange a loan.

Administering the estate

When the Probate Registry receives confirmation that inheritance tax has been paid or none is due, the issue of the grant will proceed. Any wills or codicils are retained by the Registry to become a matter of public record, but the grant of probate will include a copy.

When the grant has been obtained, the executors and administrators are able to deal with the collection and the sale of assets, and paying liabilities. Collection and sale is facilitated by registering the grant with banks, building societies and share registrars, who will now act on the executors' or administrators' instructions. This releases funds to pay outstanding debts and reimburse expenses.

Likely instructions are to:

- transfer or sell the deceased's house
- close bank or building society accounts
- sell or transfer shares
- claim life assurance policy proceeds
- collect pension arrears

Lovewell Blake can help with the necessary correspondence and associated paperwork.

Beneficiaries

The beneficiaries are entitled to the estate in accordance with the will or under the Rules of Intestacy. There are various types of beneficiary, depending on whether they are entitled to a fixed cash sum, a particular item such as jewellery, or a percentage share of what is left. The latter is a residuary beneficiary.

The cash legacies and the specific items are generally dealt with before making payments to the residuary beneficiaries. Residuary beneficiaries should be given a copy of the will and details of the assets and liabilities of the estate, as ultimately the executors or administrators have to account to them for what has happened to the estate.

An interim payment can be made to the residuary beneficiaries. The executors will need to assess what reserve to make to cover the remaining outgoings, such as any taxes and the expenses and costs of dealing with the estate. Any balance is paid once all the other matters have been dealt with.

Assets can be transferred to residuary beneficiaries rather than being sold, but if there is more than one beneficiary it is advisable to transfer a proportion of any shareholding to each beneficiary to be equitable. Further valuations may be required at this stage, together with calculating the potential tax implications, as this may affect the decisions made.

It may be appropriate for estate accounts to be produced showing receipts, payments and the division of the estate.

Lovewell Blake can prepare estate accounts.

Deed of variation

With the agreement of affected beneficiaries, a deed of variation is a useful tax planning tool which can be used to amend the terms of the will or the distribution on intestacy.

This may be appropriate to reduce the inheritance tax liability, or can be used to pass assets to beneficiaries not mentioned in the will, or to distribute to them in different proportions.

Lovewell Blake can advise whether such planning should be considered, calculate potential tax savings, and advise on future inheritance tax planning generally.

Estate tax returns

During the period of administration the executors will have to pay income tax on any income received without deduction of tax at source and capital gains tax on any increase in value between the date of death and the date on which the assets are sold.

The residuary beneficiaries must be provided with a certificate showing their share of income received during the period of administration and the associated income tax deducted. Depending on the beneficiary's personal circumstances, he/she may be able to claim a tax refund or may have more tax to pay.

Lovewell Blake can prepare the estate tax returns and calculate the tax liabilities arising. We can prepare the certificates for beneficiaries.

In conclusion

It is never possible to determine at the outset how long the administration will take because this depends on the nature of the assets and what occurs during the process. If there is a business to wind up, valuations to agree with HMRC, or claims against the estate involving legal proceedings, then it may become protracted. If the estate is straightforward, matters may be concluded in a matter of months, otherwise it may be as long as several years.

It is hoped that this guide will assist you throughout the process, however long it takes.

Please get in touch with your usual Lovewell Blake contact if you would like a referral to our specialist estate administration team.

Disclaimer: Please note that this document is provided for your information only. Whilst every effort has been made to ensure its accuracy, information herein may not be comprehensive and you should not act upon it without seeking professional advice.

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