



HATTEN WYATT

Solicitors & Advocates

Established 1844

*A Guide to
Bereavement & Practical
Help at a Difficult Time*



In association with Certainty UK's online Will register where you can register your Will and search for a missing Will.

www.certainty.co.uk



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Immediate Action Check List Following a Death

- Contact your solicitor who specialises in will and probate matters who will be able to assist and advise.
- Register the death.
- Check directions re: disposal of body.
- Arrange funeral/cremation as directed.
- Notify time, date and place to family.

Deceased's house

- Remove valuables
- Drain water system
- Cancel deliveries e.g. milk, papers
- Redirect mail
- Lodge keys securely, not marked with address
- Confirm that property is insured
- Inform landlord if property vacant, if appropriate

Deceased's car

- Inform insurers
- Transfer insurance if to be used by family
- Arrange for security if not to be used

Deceased's pet

- Arrange for welfare

Announcements

- We must sadly advise you not to announce the death in the local or national paper, nor the funeral, because many families have - almost unbelievably - come back from the funeral to find the house has been burgled.

A Guide to Bereavement

When someone passes on there are many arrangements and decisions to be made at the most distressing time.

The aim of this guide is to help you with the administrative and financial issues you may have to consider when someone dies.

The following information is in the order you will need it after a death, so you can understand and deal with these necessary actions in the relevant order.

We have also included the useful contact details of organisations which you may find helpful and a glossary to explain some of the legal terms.

In the first few days:

- Register the death.
- Arrange the funeral.

In the first few weeks:

- Deal with the Will.
- Sort out what happens to the estate if there isn't a Will.

In the next twelve months:

- Obtain a Grant of Representation if one is required.
- Consider the family's financial situation as a whole - would it be appropriate to make a Deed of Variation?
- Administer the Estate according to the terms of the Will, Intestacy or Deed of Variation.
- Make or review your own Will.

We will be happy to assist or guide you at any stage through the complex and complicated area of administering the estate and reduce the pressure and worries of being personal representative.

You should contact us and if you are unable to find the Will either you or we can on your behalf check with www.certainty.co.uk to see if it has been registered. Of course, if it is held in our strong room we will be able to advise you.

Glossary

A guide to words which you may meet when making a Will or Administering an Estate:

- *Administrator* - a person who has been appointed to manage and distribute your estate if you have not made a Will.
- *Bequest* - a specific item or sum of money given by a Will. Also see Legacy below.
- *Beneficiary* - anyone who will receive a gift from your Will.
- *Chattels* - personal possessions, such as a car, furniture or jewellery.
- *Codicil* - a further legal document making a change or adding to an existing Will.
- *Deed of Variation* - a legal document changing a Will or Intestacy made after death.
- *Estate* - the total of your possessions whether money, property or chattels which you leave when you die.
- *Executors* - the people appointed in a Will to deal with the estate of a person who has died.
- *Grant of Representation* - word including Probate of the Will or Letters of Administration.
- *Intestacy* - dying without making a valid Will; a person is then said to die intestate
- *Legacy* - a specific item or sum of money given by a Will. There are various types of legacy: -
 - o Pecuniary legacy - a sum of money
 - o Residuary legacy - a gift of the residue of an estate or a share in it
 - o Specific legacy - an individual item e.g. a picture
- *Letters of Administration* - the formal legal proof that the Executors of a will or the administrators are entitled to deal with the estate.
- *Personal Representatives* - an alternative term for Administrators or Executors are entitled to deal with the estate.
- *Residue* - the sum that is left in an estate after payment of debts, expenses, tax and legacies.
- *Testator/Testatrix* - the man/woman who has made or is making a Will.

Register the Death

Death should normally be registered within the five days at the registry office covering the district where the death occurred. This is usually done by a relative, someone present at the death, or the person making the arrangements for the funeral. If you want to register the death in private, try to make an appointment to see the registrar. As well as giving you privacy, this will mean you avoid waiting. When the death is registered the informant will be asked to give the Registrar the following particulars relating to the deceased, the Registrar will however understand if some of the particulars are not known.

- The full name of the deceased
- If the deceased was a married woman, her maiden name
- The deceased's last address
- The date and place of the death
- The deceased's date and place of birth
- The deceased's occupation
- If the deceased was married, the name and occupation of the deceased's spouse and his or her date of birth if still living
- Details of any pension or payment from public funds being received by the deceased

If it is possible the informant should try to take the following with him when he registers the death.

- The Medical Certificate showing the cause of death
- The Deceased's NHS medical card
- The Deceased's War Pension order book (if applicable)
- The Certificate from the coroner (if applicable)

The registrar will make an entry in the register of deaths and give you three documents.

- Certificate of burial or cremation: you will need to give this to the funeral director
- Certificate of registration of death: If the deceased was receiving a state pension or other benefits the appropriate section(s) will need to be completed and returned to the local social security office.
- Death certificate: this is a copy of the entry in the register, and it usually costs £3.50. Banks and insurance companies will ask to see the original death certificate before they release the deceased's funds, so ask for several copies.

Arrange the Funeral

It is important that you should find the last Will made by the deceased as soon as possible as it may include his wishes for a funeral. If the death was sudden, a coroner may become involved, which could impact on registration and funeral arrangements. See the Home Office's leaflet on sudden death: www.homeoffice.gov.uk/justice/legalprocess/coroners for more information.

What decisions have to be made about the funeral?

- Do you want the body to be buried or cremated?
- Where the funeral will start from, when it is to take place and where the body should remain until the funeral.
- Whether there should be any form of a religious service - and if so where it should be held and who should conduct it.
- Whether you want flowers (and if so what happens to them after the service) or a donation to charity.
- Whether to place an announcement of the death in a national or local newspaper (if so, we advise not to include the home address of the deceased).
- If cremated what should happen to the deceased's ashes; and
- Whether you wish for a memorial plaque to be placed anywhere.

Your chosen Funeral Director will help and advise you about the formalities and any problems that you have in making the final arrangements.

Remember that funerals are expensive; do get a written estimate of the director's costs and the additional fees that will have to be paid through his offices. Check where the money for the funeral will come from. Otherwise, if there is not enough money available, YOU may have to bear the cost yourself.

Do you need help paying for the funeral?

- If you are claiming social security benefits, you may be eligible for a Funeral Payment from the Social Fund. Ask for details at your local social security office. It is best to apply as early as possible so that you know when you are planning the funeral whether or not you will receive any assistance.
- If the deceased's financial assets have been frozen and you need them to pay for the funeral, their bank or building society may be prepared to release a cheque payable to the funeral director before probate has been granted.
- If the deceased was employed, you may receive a death in service payment from their employer, or you may be eligible for payments from a benevolent fund or an occupation pension scheme. To find out more, contact the company directly.
- If no one is able to pay, the local authority will arrange a simple dignified funeral at their expense.

Social Security

For more information about getting financial help if the person who died did not have enough money to pay for their funeral, contact your local Social Security Office. It is listed in the phone book under 'Job Centre Plus'. Ask for leaflet SB16.

Dealing with the Will

If the deceased had made a Will, there should be a copy among his personal papers. If you can't find one, check with his solicitor, bank or other adviser who may have helped him make a Will, or be holding it in safe custody. If there isn't a Will, the deceased is said to have died 'intestate' and his estate will be distributed according to the rules of intestacy.

What does the executor/administrator do?

Make an inventory of the estate, including money in bank accounts, savings, investments, insurance policies, property and other possessions.

- Apply for probate, if necessary, either in person at the Court or through the services of a Solicitor.
- Find out who owes the estate money, and to whom the estate owes money, and arrange for this money to be paid
- Pay any Inheritance Tax (IHT) that is owed. IHT is payable on everything in the estate over the value of £325,000 (for the tax year 09-10). Any IHT liability must be paid, at least in part before the probate will be granted.
- Pay any bequests. Only after all debts and taxes have been paid can the remainder of the estate be distributed to the people and organisations named as beneficiaries in the Will.

An administration may take up to a year to complete, longer if a property has to be sold or there are complicated tax issues.

Applying for Probate

Probate is a legal document that entitles the executor or administrator to make and receive payments from the estate and deal with the assets and property of the deceased.

If the estate is small, or if it is held in joint names and passes automatically to the surviving owner (as is often the case with married couples, for example), you may not need to apply for probate. You will need to get a grant of probate if there is a Will or a Grant of Letter of Administration if there is not, if you are unsure we can advise you.

When you show the probate form to a bank, for example, they know they are dealing with the person who has the right to handle the estate, and they will allow you to withdraw money from the deceased's account.

When you apply for probate, you are promising the Probate Court that you will deal with ('administer') the estate as set out in the will and according to the law. Probate makes sure that the executors carry out their task properly.

When there is no Will (or there are no executors named in the Will or the executors have died), the official form is called 'letters of administration'.

If there is not a Will

You can search for a Will at www.certainty.co.uk or we carry out this search on your behalf.

If there is not a Will the personal representative must distribute the balance of the estate according to the rule of intestacy.

If there is a surviving spouse or civil partner with children, the surviving spouse receives:

The first £250,000 of the estate and personal possessions and a life interest in half of the estate, the children sharing the other half.

If there is a surviving spouse or civil partner with no children, but if any of the deceased's parents, brothers and sisters or their children are still alive the surviving spouse receives:

The first £450,000 of the estate, and the personal possessions, and half the rest of the estate, the above relatives (or some of them) sharing the other half.

If there is not a surviving spouse or civil partner the money is divided equally among the persons in one of the following groups and taken in the priority shown below, if there are not any surviving relatives in the first group, then the next group take in priority and so on.

1. Children (But if any child has already died, their share will go to their children)
2. Grandchildren
3. Parents
4. Brothers and sisters
5. Grandparents
6. Aunts and Uncles
7. Nephews and Nieces
8. Cousins

If there are not any relatives, the crown has a right to the whole of the estate. You should write to:

The Treasury Solicitor's Department (BV)
Queen Anne's Chambers
28 Broadway
London
SW1H 9JS

Deeds of Variation

It is possible for the beneficiaries and the Personal Representatives of an Estate to effectively 'rewrite' the will of the deceased, or if there is not a Will, to write one for him, by creating a legal document called a Deed of Variation. Consequently, the estate of the deceased may be distributed in a more tax-effective way. It is necessary to make a variation within two years of the date of death.

Planning for the Future

When someone dies, families often have to contend with the changes to their financial situation. Money issues may be short term, for example, while you wait for probate to be granted, or you may find that your financial circumstances are permanently altered.

There are several benefits to which you may be entitled, particularly after the death of your spouse. The rules can be complicated, so if you think you may be eligible, ask your local social security office.

The main state benefits for the bereaved are as follows:

- **Bereavement Payment:** a tax free lump sum paid when you are widowed, if your husband or wife wasn't entitled to the state pension, or if you or the deceased, were under state pension age when they died.
- **Bereavement Allowance:** a regular payment made for you to 52 weeks after the death of your spouse or partner if you were aged 45 or over, but under state pension age, when they died.
- **Widowed Parent's Allowance:** a regular payment made to widowed parents who have at least one child for whom they can receive child benefit.
- **Child Benefit (Lone Parents):** a higher rate of Child Benefit for the only or eldest child of a person bringing up children on their own.
- **Guardian's Allowance:** you may qualify for this if you are bringing up someone else's child and you are entitled to receive child benefit for them.
- **War Widow's Pension:** you may be eligible for this if your husband's death was due to his service in HM Armed Forces.

Before claiming any of the above please be careful to check if they are means tested and if so supply the necessary information.

The death of someone close may prompt you to make or update your Will. This can reduce the cost and hassle at a stressful time for your family and ensure that your property is left to the people you want to benefit. This is particularly true for cohabiting couples: if you aren't married, your partner has no legal right to inherit your estate, and from our experience could lead to contested probate, which could be expensive for the estate. Therefore if you want to either make a new Will or update your existing Will, we can assist you.

A Will makes provision for how your estate will be administered and who will be responsible to do this after you have died, but you can also make provision for someone during your lifetime, by making a Lasting Power of Attorney. Under the Lasting Power of Attorney you can appoint one or more people you trust to manage your financial affairs and make welfare decisions for you at a time when you are most vulnerable. Your attorney could be a close relative, a trusted friend or your professional adviser, such as Partner of Hatten Wyatt. If you do not make a Lasting Power of Attorney and need assistance, someone will need to make an application to the Public Guardianship Office to be appointed as Deputy. We can assist you with such an application, and indeed we act of number of patients as their Deputy.

After October 2007 the Mental Capacity Act 2005 allows a person to appoint an attorney to act on their behalf in relation to financial and property matters if they should lose capacity in the future and also allows a duly appointed Attorney to make health and welfare decisions. These forms of Lasting Power of Attorney will be more complicated and will have to be registered with the Office of the Public Guardian before the Attorney will be able to act under the Power.

This is a general guide and if you need more specific advice in accordance with your particular circumstances, and then please contact our Private Client Department, where one of our solicitors will be able to help. Within our team of solicitors we have members of the Society for Trust and Estates Practitioners (STEP) as well of the Solicitors for the Elderly.

Useful Contacts

The Certainty National Will Register
www.certainty.co.uk

The Bereavement Register
www.the-bereavement-register.org.uk

Cruse Bereavement Care
Tel: 0870 167 1677
www.crusebereavementcare.org.uk

Age Concern
Astral House 1268 London Road, London Sw16 4ER
Tel: 020 8675 7200
www.ace.org.uk

National Association of Funeral Directors
618 Warwick Road, Solihull, West Midlands B91 1AA
Tel: 0121 711 1343
www.nafd.org.uk

Natural Death Centre
Tel: 08712 882 098
www.naturaldeath.org.uk

Society of Allied Independent Funeral Directors
Tel: 0845 230 6777
www.saif.org.uk

With special thanks to Certainty for their valuable contribution.
www.certainty.co.uk





HATTEN WYATT

Solicitors & Advocates

18/21 Wrotham Road
Gravesend
Kent, DA11 0PF
Telephone: (01474) 351199
DX: 6800 Gravesend
Fax: (01474) 334345

51/54 Windmill Street
Gravesend
Kent, DA12 1BD
Telephone: (01474) 351199
DX: 6800 Gravesend
Fax: (01474) 328315

www.hatten-wyatt.com