

What you need to know when someone dies

When someone dies it is a very upsetting and stressful time. Unfortunately, a number of legal formalities will need to be dealt with. MLC has a dedicated friendly team that can help you and reduce the stress involved. We have set out below some answers to questions we are frequently asked. We hope they will help you.

What happens if there is a will?

If the person who has died left a will, it will usually appoint executors who are nominated to administer the estate. The will should state how the estate is to be distributed and may also give details for funeral arrangements.

What happens if there is no will?

If there is no will, an intestacy will arise. The appointment of an administrator and distribution of the estate to beneficiaries will be determined by statute law.

What are the duties of the personal representatives?

The personal representatives (executors and administrators) first duty is to pay the people to whom the deceased owes money, for example HM Revenue and Customs, bank, credit card companies. Personal representatives must ensure that all liabilities are ascertained and paid. Secondly, they must ensure that the beneficiaries receive their entitlement under the terms of the will or intestacy. Lastly, the representatives have a duty to the Court and ensure that the estate is administered in accordance with the terms of the will or intestacy and the law.

What is a grant?

The Grant of representation is the document which declares the appointment of the executor or administrator. There are 3 main types of grant of representation:

- A Grant of Probate issued to the executors in the will granting them authority to deal with the estate.
- A Grant of Letters of Administration with will annexed, issued when there is a will but either the executor named in the will is unable to act or no executor is named.
- A Grant of Letters of Administration issued when the deceased died without leaving a will.

If the estate is valued at less than £5000 or if the deceased's assets were jointly owned it may not be necessary to obtain a grant.

What can be done before the Grant is issued?

For executors their authority to act derives from the will whereas an administrator's authority is not formalised until the grant of Letters of Administration. By producing the death certificate, the personal representatives can arrange the funeral and obtain information from financial institutions as to the value of assets held.

Who pays the funeral expenses?

The funeral expenses are a liability of the estate and are payable from the deceased's assets. It is customary for the funeral invoice to be settled without delay often before the Grant can be obtained. Sometimes banks will allow funeral expenses to be settled out of the deceased's account.