

BEREAVEMENT

& ADMINISTERING AN ESTATE



Trust our Experience

James
McNulty & Co.

SOLICITORS

T: (028) 8224 2177

Est. 1931

www.jamesmcnulty.co.uk

Death leaves a heartache difficult to heal; Love leaves sweet memories no one can steal.

Found On A Tombstone in Ireland, dated 1889

(The information herein is intended as a general guide only by James McNulty & Co. If there are any specific queries an appointment should be arranged with one of our Solicitors, or arrangement of a home visit so full advice can be given. No responsibility is accepted for any errors or omissions however arising within this guide).

Bereavement & Administering an Estate.

The death of a loved one causes untold pain and distress; we offer our sincere sympathy to you, your family and friends who are affected by this sad loss. This guide outlines practical information and guidance following both expected and sudden death. We hope that you find this information useful and that it will, in some small way, reduce the anxiety and distress you feel at this difficult time. When already experiencing grief, dealing with practical matters and making important decisions can seem overwhelming.

This guide aims to offer help and support through those steps and decisions. Each part outlines the different stages and processes which need to take place after the passing of a loved one. Those stages include:

- Certifying a Death
- Cremation
- Post-Mortem Examinations
- The Coroner
- Coping with Grief
- Physical & Behavioural Changes
- Caring for Children
- Helping Children Cope
- Registration of a Death
- The Funeral Director
- Arranging the Funeral
- Meeting Funeral Costs
- Informing Organisations of the Death
- Administration of an Estate
- People/Organisations to Contact

Practical Information & Guidance:

When someone dies, many decisions and arrangements need to be made. Dealing with the practicalities can feel overwhelming. It is important to take some time to gather your thoughts, to cry, or to talk. It can be helpful to seek support from another family member or someone outside the family whom you trust.

Certifying a Death:

When your loved one passed away, a GP, hospital doctor or nurse trained in verifying death will have confirmed that death occurred. If a doctor had examined the person in the previous 28 days, knows the cause of death and knows it was a natural cause, they can issue a Death Certificate.

Sometimes the issue of a Death Certificate can be delayed, for example if:

- The death occurred at the weekend, overnight or on a Bank Holiday, and the doctor on duty was not directly involved in caring for your loved one
- The duty doctor needs to discuss the cause of death with the doctor responsible for your loved one's care
- The doctor needs to contact the Coroner for advice. You should only make provisional funeral arrangements until you receive the Death Certificate. You will need the Death Certificate to register the death, so keep it safe.

Cremation:

If you are planning to have your loved one cremated, you must inform medical staff and your funeral director. A second doctor will need to confirm the cause of death and complete a cremation form. There is an additional cost for completing cremation forms. Cremations take place in Belfast & Cavan.

Post-mortem examinations:

A hospital doctor may ask you for permission to carry out a post-mortem examination. This can help determine the nature and extent of the disease your loved one died from and increase medical knowledge about it. The hospital post-mortem is not a compulsory examination and you can refuse.

The Coroner:

For legal reasons, a death sometimes needs to be referred to the Coroner.

This includes when:

- A doctor did not see or treat the person in the 28 days before they died.
- The cause of death was sudden, violent or unnatural, such as an accident, assault or suicide.
- The cause of death was an industrial disease of the lungs. (for example, asbestosis)
- The death occurred in other circumstances that may require investigation.

The Coroner will consider the information that the doctor provides and make one of the following decisions:

- The doctor can issue a Death Certificate.
- The doctor must complete a Coroner's Pro-Forma and forward it to the Coroner's Office.
- A post-mortem examination is required to find out the cause of death.

If the Coroner orders a post-mortem examination, consent from the next-of-kin is not required. The Coroner's decision has to be accepted. A Coroner's Liaison Officer will contact you to inform you of the initial post-mortem findings and let you know when your loved one's remains will be released. You must not set the funeral date until you have the Coroner's permission. You will then be advised how to obtain the necessary form which permits burial or cremation.

Your loved one's doctor will receive a copy of the full post-mortem examination report. This may take a few months. The family will be told when the report is available and may wish to meet the doctor to discuss the findings. Details for the Coroner's Service for Northern Ireland are:

Mays Chambers
73 May Street, Belfast
028 9044 6800 / www.coronersni.gov.uk



Coping with Grief:

Adjusting to the loss of someone that we love can make us feel confused and overwhelmed by sadness and other emotions. This is grieving. Grieving is normal, and people react differently. There is no time limit for the feelings associated with grief – for some people it is a matter of months, for others, years. You need to give yourself time to adjust and re-engage in life without the person who died.

You may feel numb at first. You might experience feelings of shock and disbelief, even if the death was expected. It may feel unreal – you cannot accept that your loved one has died. This is a normal reaction that initially comforts you against loss. It is not uncommon to feel ashamed of your emotions. For example, you may feel guilty for things you think you should have done, or relief that the person has died and that their pain or suffering is over. You may experience a feeling of disloyalty when you find yourself pursuing new or old interests.

You may be angry with yourself, for the things you said or always meant to say and did not have the chance to. You may also feel angry at the person who died, or you may blame other family members or the professionals involved in the care of your loved one. Depending on your religious/spiritual beliefs, you may question ‘why’ this was allowed to happen. Part of grieving is trying to make sense of something that often seems senseless. You may find yourself thinking ‘if only...’ If you have lost someone who has been a big part of your life, your home may seem very empty. The feeling of isolation can be painfully strong. You may feel sorry for yourself. Longing can be a big part of grief. Some describe this feeling as similar to ‘losing your mind’. For instance, you may look for your loved one in a crowd; you may think you have seen them on a bus or even heard their voice, even though you know they have passed away.

It is common to have feelings of sadness and depression. These should lessen with time. If, however, the feelings get stronger and you are unable to carry out normal tasks or you experience suicidal thoughts, then it is important for you to seek specialist help. The usual way to access this is through your GP.

Physical & Behavioural Changes:

You may feel tired but you cannot sleep. You might feel hungry but unable to eat. You may have difficulty concentrating and be easily distracted or forgetful. You might find yourself in a state of panic or viewing simple problems out of proportion. You may feel run down or lethargic or have aches and pains that you do not normally suffer. Although this can be a normal part of the grieving process, seek advice from your doctor if you are concerned.

You may find that friends and neighbours sometimes avoid you. This is because they do not know what to say and/or they are finding it difficult to cope with their own feelings of loss. It may help if you take the first step by letting them know that you would appreciate their friendship & support. It might seem that life would be more bearable if you made drastic changes to avoid

painful memories, such as moving house or disposing of your loved one’s belongings. Try to avoid doing this at an early stage in your loss. There will come a time that is right for you to make such important decisions.

Suggestions that may help:

Allow yourself time to grieve. Accept that crying is a normal way to release your feelings and that you may need to allow yourself to cry sometimes. Try to accept help from others, and do not allow yourself to become isolated. Remember that anniversaries, birthdays and Christmas time can intensify feelings of grief, so you may benefit from extra support at these times.

Sharing your feelings can be helpful. It is not always easy to do this with family & friends, and you may prefer to speak with someone else you can trust. You might also consider contacting a local organisation that offers bereavement support. (See the ‘people/organisations’ section at the back of this Guide.)

Remember, you will have good days and bad days. Allow yourself to laugh, cry & be angry – you have lost someone that you love and it hurts. As time passes, you will find memories are perhaps less painful. You will be able to remember without becoming so distressed. You may find yourself pursuing new or old interests.

Keep in mind that specific things which may be too painful for you to do at the beginning may provide comfort later on, for example visiting the grave, listening to a special piece of music or looking at photographs. Starting a box for mementos such as letters, pictures and items that had special significance for your loved one can also be a helpful focus for your grief.

Caring for Children:

Adults often feel the need to protect children from death and their own grief, as they think the children will find it too upsetting. However, children are often more frightened when they are not sure what is going on around them than when they are allowed to be a part of it. When you tell children that a loved one has died, use simple language and answer any questions as honestly as you can. Use such words as ‘dead’ and ‘death’ rather than ‘lost’ or ‘sleeping’, which can be confusing for them.

Pre-school children do not generally understand that death is permanent and may repeatedly ask questions such as ‘When is granny coming back?’ Children of primary school age usually do have an understanding of the finality of death and often ask direct questions about it.

Helping Children Cope:

Sometimes it helps to allow children to decide for themselves if they wish to see the deceased’s remains or not. However, to enable them to make their decision, you will need to prepare them by

explaining what they will see. For young children you may need to explain that the body no longer eats, talks, walks or sleeps and that it may feel cold to touch.

As with adults, sometimes individual children will benefit from specialist bereavement support. If you think this is the case for a child in your care, contact your GP or one of the organisations listed in the 'people/organisations' section of this Guide.

Registration of a Death:

All deaths that occur in Northern Ireland must be registered at an office of the Registrar of Births, Deaths & Marriages. When a Death Certificate has been issued, the death must be registered within five days.

In cases referred to the Coroner, the death can only be registered after the Registrar has received the necessary certificate from the Coroner. The Registrar's Office will then contact a relative and ask them to call and register the death. There is no cost for registering a death.

The Funeral Director:

Most people use the services of a funeral director when arranging funerals as they will organise the complete funeral for you. Funeral directors are available seven days a week and provide a 24-hour on-call/undertaker service throughout the year.

The funeral director will help with many things that need to be done. Their duties might include:

- Arranging collection of the deceased from the place of death.
- Implement any funeral plan the deceased may have.
- The preparation; such as embalming of the remains, care and dressing of the deceased.
- Contacting a spiritual advisor, place of worship, cemetery or crematorium to arrange the funeral. A minister, priest or faith representative will help to plan and prepare for the funeral.
- Transfer of the deceased to their home.
- Arranging for the completion of necessary medical certificates for the crematorium.
- Assisting with the selection of a coffin.
- Arranging the purchase and/or opening of a grave.
- Informing others of the death by way of a notice in the newspaper or social media.
- Ordering flowers.
- Provide order of service booklet.
- Providing a hearse and additional cars for the funeral.
- Arranging refreshments/food for the funeral & any Marquee Hire.
- Receiving and distributing donations to charity.
- Transfer of the deceased to the Church / Liaise with the Church.
- Supply of Bereavement pins

Arranging the Funeral:

If the death occurred at the weekend or over a bank holiday, or if the Coroner is involved, there may be a delay in being able to proceed with the funeral. Provisional funeral arrangements can only be made until either the Death Certificate or permission from the Coroner has been obtained. There may have been an opportunity to talk to the deceased before their death about their wishes for burial or cremation and what type of funeral service they would like, for example music, hymns and style. Alternatively, the Solicitor may have this information in a Will, or they may have left written instructions separately with the Funeral Director.

Meeting Funeral Costs:

Some people contribute to a payment plan to cover the cost of their funeral. If in receipt of certain benefits, financial help may be provided in the form of a burial grant. A social worker, funeral director or the local social security office will be able to provide more information on burial grants.

Informing Organisations of the Death:

In addition to informing friends and family of a death, there will be a number of organisations that will need to be contacted, from banks and building societies to utility companies. The easiest way to inform organisations of a death is by telephone. It is helpful to have an account number or reference before calling. Each organisation will advise if they need to see documents, such as a copy of the death certificate. If the deceased used any Social Media outlets such as Facebook, there may be a named Legacy Contact who can memorialize their Account.





Functions of a Personal Representative Involve:

- Protecting the assets of the estate, e.g. making sure that everything is properly insured & promptly dealing with the estate no later than 30 days after the death,
- Taking reasonable steps to secure the property and any valuables,
- Arranging lists of any property and valuables and for valuations of the property, shares etc,
- Finding out what debts have to be paid,
- Gathering all other information necessary to obtain the legal documents which will allow a Solicitor to deal with the estate.

What is a Grant of Representation?

A 'Grant of Representation is a legal document that is issued from the High Court Probate Office which allows the personal representative to collect all assets of the deceased and administer the estate. Where the person(s) named as the executor under the Will can extract a grant of representation, such a document is known as a 'Grant of Probate'. Where there is no Will, it is known as a 'Letter of Administration Intestate'. Until this Grant of Representation issues from the Probate Office, the personal representatives cannot generally do anything with the assets owned by the deceased person. In limited circumstances estates with a value less than £10,000.00, it may be possible to administer an estate without obtaining a grant.

What Needs to be Done?

- It is necessary to go through the deceased's papers (Bank/Building Society Books/Statements/ Insurance, Policies/Savings, Certificates/Stocks/Shares, Title Deeds and any other papers which will help to identify the assets and liabilities of the estate),
- The insurance cover on the property or other valuable assets should be checked to ensure that there are no disagreements between each of the beneficiaries,
- Practical steps may involve removing valuables, turning off the water mains, installing additional locks/alarm, notifying the neighbours, notifying the insurance company and local Police that the property will be unoccupied,
- Valuations must be obtained setting out the value of all the assets and liabilities of the estate at the date of the death,
- Tax liabilities must be dealt with.

Who makes decisions?

The personal representative(s) should make decisions in consultation with the beneficiaries. For instance, before making a decision to sell any part of the estate, the personal representative(s) should discuss the matter with the beneficiaries concerned and should abide by the wishes of beneficiaries insofar as is practical.

Final Steps - Administration of an Estate:

Lastly, in the final steps after a death, important decisions may have to be made with regard to the distribution of the Estate of the deceased (property and assets). It is advisable to seek timely professional advice and assistance in doing so. This is referred to as the Administration of an Estate.

What is an 'Estate'?

When a person passes away, everything they own except assets where ownership ceases on death or passes automatically is referred to as the deceased's 'estate'. After payment of debts and taxes, the 'estate' is divided among the beneficiaries in accordance with the deceased's Will or if there is no Will, among the closest relatives in accordance with rules set out in law. This is known as the Rule of Intestacy.

What is a Personal Representative?

A personal representative can be either an 'executor' or an 'administrator'. Executors are the persons named in the Will to deal with the Estate. Where there is no Will, the law allows someone among the deceased's beneficiaries or closest living relatives to deal with the estate; this person is called an administrator.

How long will it take?

Although the law allows one year from the date of the death for a personal representative to give beneficiaries what is due to them, the time it actually takes very much depends on the circumstances of each individual case. It will usually be upwards of three months before a grant of representation is issued but it can take considerably longer.

It also depends on the size of the estate and the time it takes to get all the detailed information required to complete the Inland Revenue Account. This is a list of assets and liabilities and includes a detailed questionnaire which must be lodged with HMRC and must be certified by them before an application can be made for a grant of representation to the Probate Office.

Should I consult a Solicitor?

A solicitor can advise on the correct procedure to be followed from the outset and will be in a position to deal with any underlying difficulties that may arise.

It is essential to identify from the outset any legal issues which may need to be dealt with. These may not always be obvious and can result in a personal representative being held personally liable. We attend to the considerable administrative detail involved completing the Revenue and Probate Office applications required for a grant of representation (in the absence of a Will, a Bond, usually from an insurance company, may be necessary) to collecting the assets, making the various tax returns, obtaining various tax clearances and ultimately making arrangement for the distribution of the estate, or any asset and liability, accounting to the personal representative(s) and beneficiaries.

There may be an infinite range of circumstances which may mean that legal advice is needed, such as:

- Title matters i.e. ownership of the property,
- From which account debts should be paid and if there is sufficient cash to pay liabilities and legacies,
- If the beneficiary is under the age of 18 years or is suffering from a disability,
- If a farm or business is involved,
- The availability of various tax reliefs and steps which could be taken after the death to make sure that all possible tax relief can be claimed,
- Whether any insurance policies/credit union accounts/post office accounts/work pensions have been nominated as payable to a particular individual,
- Claims/disputes by disappointed beneficiaries,
- Lifetime gifts that should be taken into account,
- Legacies of items which were sold by the deceased before death,
- Trusts or implied trusts,
- Pension rights,
- Foreign assets,

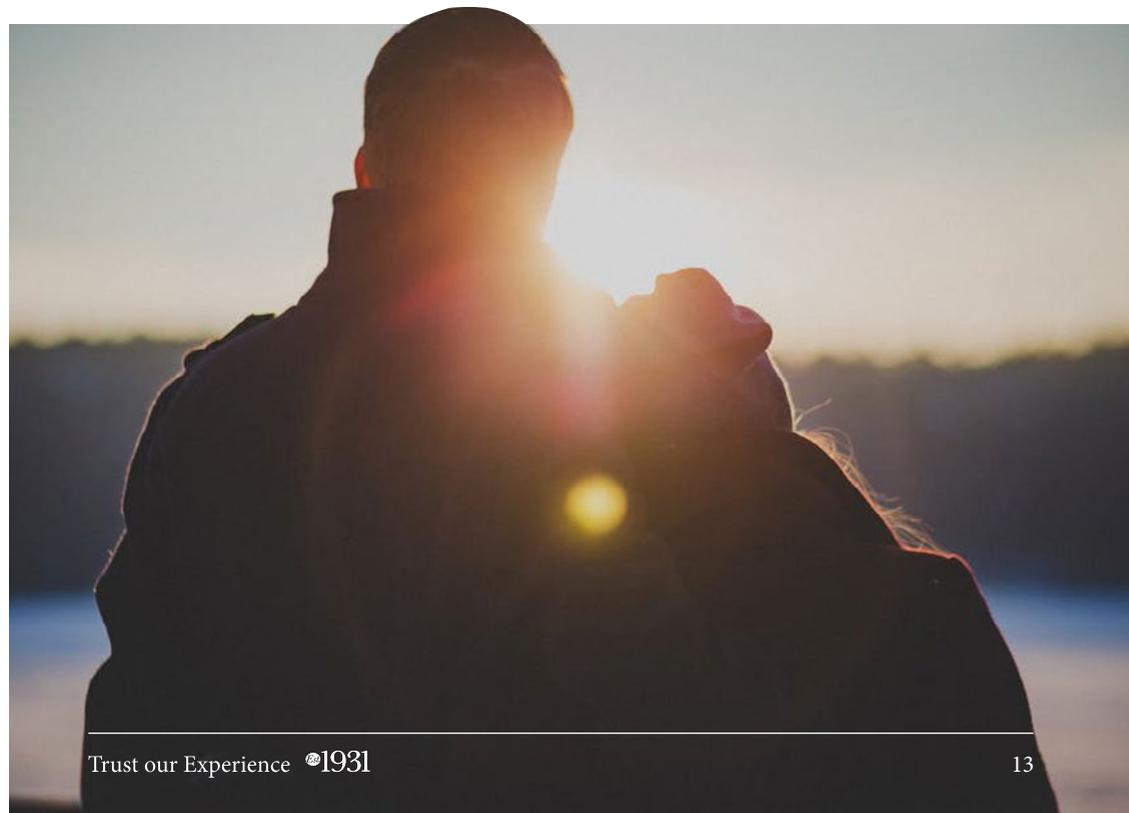
- Whether the deceased was domiciled abroad,
- Partial intestacy (where there is a Will but it does not cover all the property of the deceased),
- If the deceased owned assets jointly with any other person,
- Any outstanding Care Home Fees
- Repayments of any overpayments of benefits

What are the different types of legacies?

A specific legacy is an item specifically referred to in the Will such as jewellery, a car or a particular property. A pecuniary legacy is a bequest of a cash sum. A residuary legacy is what is left over after all the debts, funeral and administration expenses and other legacies have been paid.

Do taxes come out of the residue?

Not always, except where there are not enough assets in the estate to pay all the taxes. Liabilities and cash legacies in general and taxes due by the deceased come out of the residue. Although beneficiaries must pay their own inheritance tax, the personal representatives can be held liable for a beneficiary's tax in the event of non-compliance.



What taxes are involved?

Apart from any taxes due by the deceased before his death, clearance should be obtained in respect of the following taxes:

- Income tax and capital tax which may have arisen during the administration of the estate (the personal representative is otherwise personally liable),
- Inheritance tax is payable at the rate of 40% on inheritances which exceed certain exemption limits. There are complicated rules where there have been previous gifts/inheritances received by a beneficiary either from the deceased or any other source.

How is the Estate distributed if there is no Will?

Where there is no Will, the Laws of Intestacy provide:

- Where there is a spouse and no issue ('issue' means children, grandchildren, great-grandchildren, etc) the spouse takes the whole estate
- If there is a spouse and issue, the spouse takes two thirds and the other third goes to the issue. If a child of the deceased dies before the deceased but leaves children, then those grandchildren take their late parent's share'
- If there is no spouse, then the issue takes the whole estate. If a child of the deceased dies before the deceased but leaves children, then those grandchildren take their late parent's share,
- If there is no spouse or issue, the estate is distributed between the deceased's parents in equal shares. If only one parent is alive, that parent takes the whole estate
- If there is neither spouse nor issue nor parent(s), the estate is distributed between brothers and sisters in equal shares. If any brother/sister dies before the deceased but leaves children, then those children take their late parent's share
- If the closest living relatives are nephews/nieces, the estate is distributed equally between them,
- Where there are no nephews/nieces or closer living relatives, then the estate is distributed in equal shares among the next of kin, i.e. the nearest blood relatives in accordance with rules set down in law.

People & Organizations to Contact

People/Organizations to Contact

Coroners Service for Northern Ireland

Mays Chambers, 73 May Street, Belfast

T: 028 9044 6800

W: www.coronersni.gov.uk

District Registrar Offices, Western Trust Area:

Townhall, Enniskillen

T: 028 6632 5050

District Council Offices, Mountjoy Road, Omagh

T: 028 8224 5321

Social Security Agency: Bereavement Service:

Contact this service to:

Fund Benefit

T: 0800 085 2463

Brake: The road safety charity. For anyone bereaved, injured or affected by a road traffic collision.

T: 0845 603 8570

W: www.brake.org.uk

Cancer Focus NI: Provides a counselling service to patients and relatives pre and post bereavement.

T: 028 9066 3281

W: www.cancerfocusni.org

The Compassionate Friends: If you have lost a child the care, support, understanding and opportunity to share experiences and feelings with other bereaved parents in a caring environment.

T: 028 8778 8016

W: www.tcf.org.uk

Cruse Bereavement Care: Provides a free and confidential support service for anyone coping with bereavement.

Regional Office T: 028 9079 2419

Foyle Cruse Area T: 028 7126 2941

Omagh/Fermanagh Cruse Area T: 028 8224 4414

W: www.cruse.org.uk

The Silver Line: A free & confidential helpline for older people. Available 24 hours. For information, friendship & advice.

T: 0800 470 8090

W: www.thesilverline.org.uk

WAVE Trauma Centre: For anyone bereaved by violence.

T: 028 9077 9922

W: www.wavetraumacentre.org.uk

Barnardos Child Bereavement Support Service.

Provides advice and support to adult children, young people, their families and carers who have been bereaved.

T: 028 9066 8333

W: www.barnardos.org.uk/childbereavementservice

James McNulty & Co.

SOLICITORS



Trust our Experience

James McNulty & Co Solicitors
25-27 Georges Street
Omagh
BT78 1BW

Tel: (028) 82242177 & (028) 82245695
Email: reception@jamesmcnulty.co.uk
Facebook: [facebook.com/jamesmcnultyandco](https://www.facebook.com/jamesmcnultyandco)
Twitter: [@mcnulty_co](https://twitter.com/mcnulty_co)

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