

Perth Probate



A Legal Guide:

Our Practical Guide to Administering a Deceased Estate (10 Steps)



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Administering an Estate can be a complex process. This guide provides an overview, but it is essential to seek professional legal advice to understand the Estate's specific situation and your options.

When a person passes away, their estate must go through a structured administration process led by an Executor or Administrator. Understanding the steps involved is crucial, whether you are planning your own will or acting on behalf of a deceased individual. This guide outlines the essential steps for handling estate administration, assisting Executors and Next of Kin to navigate the process during what can be a profoundly challenging time.

Overview of Estate Administration

The administration of a deceased estate can be intricate and lengthy, taking several months or even years to resolve. The complexity of the estate—regardless of whether it is large or small—will typically involve numerous procedures to ensure the wishes of the deceased are honored appropriately. To make this process more manageable for those facing the loss of a loved one, we present a detailed 10-step guide.

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For assistance throughout any stage of this process, you can reach out to a team of estate experts for personalized support.

IMMEDIATE STEPS

Determine Who Has Legal Authority

Following the death of an individual, the immediate focus should be on determining who has the legal authority to make decisions regarding the estate. The Executor, appointed in the deceased's will, or the Administrator, if there is no will, is responsible for executing legal decisions related to the deceased estate, including funeral arrangements and asset distribution.

Locate the Will

A fundamental early step is to ascertain whether the deceased left a will. The will

acts as the guiding document during estate administration, detailing the final wishes regarding property and asset dispositions. If you do not have a copy, check with family members or secure it from safe deposits, banks, or legal representatives. If the will is located and validated, the nominated Executor should confirm their acceptance of this duty. If the designated Executor withdraws, they must formally renounce their position.

What if There Is No Will?

In the absence of a will, you must identify the senior Next of Kin willing to serve as the Administrator. They will work to assess the estate's value and make distributions according to intestacy laws, which vary by state or territory and typically prioritize spouses and children.

What if Multiple Wills Are Found?

When multiple versions of wills are uncovered, determining the valid one is critical. Legal advice is advisable to navigate potential disputes during this stage.

Notify Family and Friends

Notifying immediate family and close friends of the deceased's passing is a sensitive task that requires empathy. It may be beneficial to communicate this news face-to-face, especially if the death was unexpected.

Gain Access to the Deceased's Residence

As the appointed Executor or Administrator, you'll need access to the deceased's home to manage the estate.

Arrange to collect keys promptly to prevent issues while maintaining the integrity of the deceased's belongings.

Notify Other Relevant Parties

Once close relatives and friends have been informed, extend the announcement to other acquaintances and relevant organizations where the deceased had affiliations, such as care services, employers, or professional associations.

STEP 1: FUNERAL ARRANGEMENTS

Determine Any Funeral Intentions

If pre-arranged funeral plans exist, contact the service provider to ascertain the services included. Funeral wishes may also be stated in the deceased's will or in advance care documents.

Engaging a Funeral Director

A funeral provider should be engaged once death is confirmed. In cases of death occurring in a hospital or nursing home, contact the funeral provider to manage collection and arrangements. If the deceased passed at home, a medical professional must verify death.

If no prior funeral arrangements are found, consult the Next of Kin to make selections. The responsibility of organizing the funeral is significant; feel free to engage with reputable services as required.

Documentation for Funeral Arrangements

The following documents may be necessary as part of the arrangements:

1. **Medical Certificate:** Usually handled by the funeral provider but necessary if the death occurred unexpectedly.
2. **Application for Cremation:** Required for cremations, which the funeral provider will facilitate.
3. **Death Certificate:** Essential for various legal and administrative actions following death.

STEP 2: GATHER REQUIRED DOCUMENTS

Following immediate arrangements, it becomes crucial to compile all relevant documents for administering the estate effectively.

Obtain Grant of Probate and Letters of Administration

The legal process validating a deceased person's will, known as Probate, allows Executors to manage estate affairs. In cases without a will, Letters of Administration are required. A Grant of Representation is essential before any distribution of the estate can occur.

Insurance Documentation

Determine the deceased's insurance policies to identify potential claims that may form part of the estate. Gather relevant documentation to ensure beneficiaries can access their entitlements.

Obtain Mortgage, Rent, and Utility Documents

Identifying and compiling documents relating to the deceased's housing situation is essential. This will include mortgages or leases from their residence and any associated utility accounts.

STEP 3: CERTIFY IMPORTANT DOCUMENTS

Once you have obtained key documents, it is necessary to certify them. This step involves:

1. **Identifying Authorized Certifiers:** Certain professions can certify documents, including legal professionals, healthcare providers, and public servants.
2. **Obtaining Certified Copies:** Aim to have multiple certified copies of the Death Certificate and any other significant documents, as they will likely be required by different organizations during the estate administration process.

STEP 4: NOTIFY ORGANIZATIONS AND CLAIM OUTSTANDING BENEFITS

This step outlines how to communicate with relevant organizations and claim benefits owed to the deceased's estate.

Claim Superannuation Death Benefits

Most deceased individuals have superannuation funds that may provide a payment upon death. Identifying all superannuation funds, along with

nominated beneficiaries, is crucial for accessing these benefits.

Notify Insurance Companies

Notify all relevant insurance providers to manage claims effectively or cancel policies that are no longer needed. Be aware that bereavement payments from government agencies may also be available to the deceased's dependants.

Notify Tax and Electoral Bodies

Ensure to notify the Australian Electoral Office and the Australian Tax Office of the death as required, as this will maintain accurate records.

STEP 5: CLOSE SOCIAL MEDIA ACCOUNTS

Address how to handle the deceased's social media presence promptly and with care. You should:

1. **Identify All Platforms:** Document all social media accounts.
2. **Decide on Memorialization vs. Deletion:** Consider creating memorial accounts for platforms that support it (like Facebook) while deleting accounts on others (like Twitter) where applicable.

Manage Email and Phone Accounts

Ensure that email and mobile phone accounts will remain accessible until the estate administration process is complete. Finalization of these accounts generally comes at a later stage.

STEP 6: PAY OUTSTANDING BILLS

Assess the estate's financial obligations to ensure all bills and debts are settled. This involves determining whether the estate is solvent (assets exceed liabilities) or insolvent.

Payments for Mortgages and Personal Loans

Contact lenders for arrangements regarding mortgage payments and consider negotiations for essential services during the estate administration process.

Review and Pay Utility Bills

Communicate with utility providers and determine what services should remain or be terminated based on the living arrangements of any remaining dependants.

STEP 7: PREPARE PROBATE PREREQUISITES

As you progress, preparing for the probate application involves identifying eligible beneficiaries, assessing the estate's value, and managing potential disputes.

Identify Beneficiaries

For a valid will, confirm all beneficiaries and their details for notifications and meetings. For intestate estates, determine beneficiaries based on relevant laws of intestacy.

Compile Inventory of Assets & Liabilities

Establishing a comprehensive inventory of both assets and liabilities is critical for

assessing the estate's total value for distribution and taxation purposes.

STEP 8: PREPARE THE PROBATE APPLICATION

This involves compiling required documentation and submitting your application to the appropriate Supreme Court.

Application Steps

1. Publish a notice of the intention to apply for Probate or Letters of Administration.
2. Prepare and submit all necessary legal documentation.

STEP 9: NAVIGATE THE PROBATE PROCESS

The judicial process involved in granting probate typically includes reviewing documentation, addressing any challenges, and ensuring all parties are informed of their rights.

Court Jurisdiction

Ensure you apply for probate in the correct jurisdiction based on where the estate's assets are held.

STEP 10: FINALIZE AND DISTRIBUTE THE ESTATE

Once all necessary steps are completed, and the probate application is approved, begin the distribution process according to the will or intestacy laws.

Distribution of Assets

Follow the will's instructions or intestacy guidelines strictly to ensure fair distribution among beneficiaries. Document all distributions clearly to avoid potential disputes later.

By adhering to this comprehensive guide, Executors and Next of Kin can manage the complex and often emotional task of estate administration with clarity and confidence. If any challenges arise, don't hesitate to seek professional assistance to navigate the process efficiently.

Need Advice?

Call Perth Probate on **(08) 9227 0604** or at **contact@perthprobate.com.au** or visit **perthprobate.com.au**

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