

COLEMAN GREIG
LAWYERS

WHAT HAPPENS FOLLOWING A DEATH



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Introduction

This eBook has been prepared to provide some basic guidance and assistance for you, your family and your executors in preparation for and in the event that someone passes away.

This publication is not comprehensive advice nor is it tailored to your individual circumstances. Any queries about specific matters relating to your situation will be discussed with you when we meet.

CONTACT US FOR COMPREHENSIVE ADVICE TAILORED TO YOUR CIRCUMSTANCES.

Death

When a person dies, a doctor must be called to issue a Medical Certificate as to the Cause of Death.

Once the Medical Certificate has been issued, either a doctor (or more often a Funeral Director) will send it to the Registrar of Births, Deaths & Marriages who will then issue a formal Death Certificate to the next of kin. The Death Certificate is accepted as proof of death. The next of kin should provide personal details of the deceased to facilitate registration of death.

What does a funeral director do?

Funeral Directors are usually responsible for:

- collecting the documents required for burial;
- removing the body;
- supplying the coffin or casket;
- preparing the body;
- providing a hearse/vehicle used to carry the coffin or casket;
- arranging a service at a crematorium, grave site, church or whatever is required; and
- making arrangements with the cemetery or crematorium for the burial or cremation.

A Funeral Director may also:

- arrange a pre-burial service;
- provide a funeral parlour or chapel for viewing the deceased person;
- arrange cars for the mourners; and
- often order flowers and place advertisements.

Many Funeral Directors will accommodate people who wish to do things differently; for example, dress the deceased themselves and have home viewings.

Disposal of the body

Arrangements as to the funeral and the disposal of the body are the responsibility of an executor. If the deceased has not made a Will the responsibility then falls to the deceased person's next of kin. Any special wishes concerning the disposal of the body following death, should be discussed with the Executor in order to ensure that the wishes of the deceased person are understood.

Paying for the funeral

As a general rule, whoever organises the funeral must pay the Funeral Director. They do have the right to receive priority of payment from the Estate but only for the reasonable costs incurred. If extravagant costs are incurred then the person who arranges the funeral will pay those extra costs themselves and not be entitled to recover them from the Estate, unless the beneficiaries consent.

Most banks will release from the deceased's bank account sufficient funds to pay the funeral and cremation costs. Please take a copy of the funeral bill to the deceased's banking institution so that the deceased's funeral and cremation costs can be paid.

A photograph showing a woman on the left wearing a black suit and a black veil, looking towards an older man on the right. The man is wearing a dark suit and a light-colored tie, and is gesturing with his hands as if speaking. They are in an indoor setting with wood paneling.

FUNERAL DIRECTORS WILL ACCOMMODATE PEOPLE WHO WISH TO DO THINGS DIFFERENTLY.

Power of Attorney and Authority to operate bank accounts

Upon death, any Power of Attorney or an authority to operate the person's bank account cease to have effect. The Attorney or bank signatory must not continue to operate those accounts or carry out business on the deceased's behalf following death. It is the Executor's role to attend to the deceased's affairs following death.

Executor's Role

In general terms, an Executor's duty is to take care of the deceased's assets and property, see that debts and taxes are paid and finally, to distribute the assets to the beneficiaries of the Will.

The Executor will have to begin by finding out and making a list of everything the deceased owned or was entitled to. The list could include a home, car, money in bank or building society accounts, furniture, household appliances, jewellery, shares and other investments, insurance policies, superannuation and holiday pay from work. The Executor should take immediate steps to secure and protect the assets from damage, loss or wastage. In addition, if the Estate is to be divided between a number of beneficiaries, the assets may have to be valued. Please bring to the appointment a list of all of the deceased's assets that you are aware of. We will then make direct enquires with the institutions to ascertain the nature and value of those assets, and what they each require to release those assets to the estate.

A silhouette of two hands holding a heart, set against a background of tall grasses and a warm, golden light. The hands are positioned as if gently cradling the heart.

1-2% OF DEATHS OCCUR IN SUCH A WAY THAT ORGAN DONATION IS POSSIBLE.

Probate and Estate Administration

When a person passes away, their remaining estate including any assets such as property, bank accounts, and superannuation has to be divided amongst their beneficiaries.

If a legal Will is in place, an Executor is identified in that Will as the person or persons responsible for ensuring the asset pool is distributed according to the deceased's wishes.

In some cases, a person appoints a solicitor as their Executor. In other cases, family members or trusted loved ones are appointed and they need the help of a solicitor to administer the estate in accordance with the law and the terms of the Will.

At Coleman Greig, we can take the stress out of administering a Will for you. We are able to assist with all of the legal and practical aspects of estate administration including organising probate, taxation obligations, liaising with banks and superannuation funds, locating beneficiaries and any necessary documentation.

It is important to note that Probate is not always applicable in all cases.

People and Organisations the Executor may need to contact

There are many people and/or organisations that the Executor may need to contact to advise of the deceased's death. Some of these institutions are noted below. You can begin notifying the below mentioned institutions yourself, or you can wait until after our meeting. Generally speaking, we will contact most of the institutions on your behalf.

- Executor of Will
- Australian Taxation Office
- Centrelink
- Department of Veterans' Affairs
- Australian Electoral Commission
- Foreign pension authority
- Funeral director, funeral insurance company and funeral bond provider
- Employers
- Superannuation funds
- Clubs (e.g. the RSL)
- Education providers such as school, TAFE or university
- Banks, credit unions, etc
- Credit card/hire purchase
- Insurance companies
- Hospital
- Social worker
- Hearing Centre
- Health professionals (physiotherapist, dentist, podiatrist, optometrist, etc)
- Health benefits fund
- Medicare
- Landlord
- Local electricity authority
- Gas supply company
- Local council (rates, Meals on Wheels)
- Telephone company
- Vehicle registration and licensing authorities
- Accountant
- Public services (e.g. library)
- Post office

How we will help you

In our meeting we will:

1. Inform you in detail about the rights and responsibilities of an Executor.
2. Help you to obtain and complete the legal documents needed to apply for Probate.
3. Obtain the Grant of Probate or Letters of Administration where there is no Will;
4. Assist you to identify and collect the deceased's assets.
5. Advise you about the legal order in which debts must be paid and the remaining assets distributed.
6. Explain the legal order of distribution of the Estate in a case where there is no Will.
7. Help you draw up the report and statement on the assets for the beneficiaries.
8. Deal with any claims on the estate.



WHOEVER ORGANISES THE FUNERAL MUST PAY THE FUNERAL DIRECTOR.

What should you bring to your appointment?

Please bring the following documents to your appointment with us:

1. The deceased's original Death Certificate
2. Any details of the real property(s) that the deceased person has an interest in
3. Any original Certificates of Title or failing that a copy
4. Details of the deceased's assets, including bank account details, shareholdings, superannuation, life insurance, motor vehicles etc and any documents relating to these investments such as bank account statements, dividend statements, superannuation membership statement etc.
5. Documents relating to the deceased's interests in any private companies or trusts
6. Copies of any outstanding bills and/or debts
7. Executor(s) or Administrator(s)' passport and drivers license
8. Details of the beneficiaries of the estate, name, address, telephone number and email address (if known and available)



IF CONCERNS ARISE AFTER PROBATE IS GRANTED, THE GRANT CAN BE CHALLENGED.

Why Coleman Greig?

At Coleman Greig we are proud of the reputation and respect we have earned as Greater Sydney's leading law firm.

The depth and breadth of expertise we offer, combined with our ability to pre-empt client needs and deliver individually tailored legal solutions, continue to position us at the forefront of cutting-edge legal services and ensure that we continually surpass client expectations.

COMMERCIAL CLIENT SERVICES

Commercial Advice
Corporations Law
Mergers & Acquisitions
Franchising
Intellectual Property
Employment Law & WHS
Competition & Consumer Law
Debt Recovery & Insolvency
Commercial Litigation
Dispute Resolution & Mediation
Commercial Property – Sales & Leasing
Property Law
Building & Construction
Business Succession Planning
Public Notary Services
In-House Training & Compliance Services
Taxation Advice
Trusts
Tax Disputes

PERSONAL CLIENT SERVICES

Family Law
CG Family Law Mediation & Arbitration
Wills and Estate Planning
Special Disability Trusts
Probate & Administration
Succession Planning
Conveyancing
Retirement Living
Superannuation and SMSF

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