

## WMS Newsletter

September 2023

### This issue looks at...

- What to do when someone dies
- What if I have an Enduring Power of Attorney?
- How do I know if my will is valid?
- How long does my will stay valid for?

### What to do when someone dies:



If your loved one dies at home and the death was expected, you can call their GP who will issue the medical certificate, this confirms the cause of death. This should where possible be obtained on the day of death.

If your loved one died in a care home or hospital the staff should take care of this. If you are not the next of kin or a close relative you should ensure that they are notified immediately.

If the death happened at home and was unexpected, you must call the Police and Ambulance services immediately and they

will provide you with the necessary guidance. In these circumstances, the coroner will be contacted, and a postmortem or inquest may be required to determine the cause of death. The coroner will then issue the documents allowing the death to be registered. It is important to note that if a postmortem examination or inquest is required the death cannot be registered until the coroner's investigation has been completed. In these circumstances, the coroner will issue an interim death certificate.

A funeral may take place when the coroner is satisfied that the body is no longer required for investigation.

### Register the Death

Once you have the medical certificate you can register the death. You will need to contact the Registrar or Births, Deaths and Marriages at the local register office in the district where the person died. This should happen within five days of the death unless the coroner is involved.

You will need to make an appointment to register the death and if possible, you should have the documents below with you. These documents are not essential so do not delay registering because you cannot find the paperwork.



- NHS card (also called the medical card)
- Birth certificate
- Driving Licence
- Marriage or Civil Partnership certificate
- Nation Insurance number of the deceased
- Passport
- Proof of address council tax bill or utility bill

***PROTECT THE ONES YOU LOVE...***

During the appointment with the Registrar, they will require further information about the deceased, including date of birth, occupation, marital status, funeral details and address. Whilst not essential it is advisable to take some supporting documents that show your own name and address such as a utility bill.

If you are not in possession of all this information, please do not worry as the Registrar will help and guide you.

### **Locate the Will**

You will need to locate the deceased's most up to date Will as early as possible particularly as this may include your loved one's wishes as to whether they are buried or cremated plus any other funeral preferences.

### **Searching for a Will**

If the Will is not located at the deceased's home, it may be stored with the will writer or other professional that drafted it. Will Management Services offer a secure storage service for all our clients Wills so that they can easily be located at the time of need.

### **How to find out if a Will exists**

If you can't locate the Will, you can carry out a Will search. There are companies that can assist with locating missing wills. These companies do charge a fee.

### **Powers of Attorney**

Powers of Attorney and third-party access to bank accounts will cease upon death. A person given power of attorney doesn't necessarily or automatically become responsible for managing the estate of the deceased. That is decided by what is set out within the will.

### **Enduring Power of Attorney**

#### **What if I have an Enduring Power of Attorney?**

The Mental Capacity Act 2005 replaced Enduring Powers of Attorney (EPA) with a new and different type of power of attorney called a Lasting Power of Attorney (LPA). This means that you cannot make any changes to an existing EPA or make a new one.

However, if you have an unregistered EPA, it can still be used and your Attorney will still need to register it with the Office of the Public Guardian (OPG) if they have reason to believe you are, or are becoming, mentally incapable in the future.

### **Intestacy Rules**

If after all of the above, you have been unable to locate the Will the estate will need to be administered under the assumption that the deceased didn't leave a Will. This is called dying Intestate and the estate is administered by the next of kin under the rules of Intestacy.

### **Arrange the Funeral**

Contact a local funeral director and they will help you to plan the funeral. You'll be asked if the deceased had any funeral preferences which is something you may already know, otherwise it is likely that they will be specific wishes within the Will.

### **Dealing with the Financial affairs of someone who has died.**

When a loved one dies if you are appointed as the Legal Personal Representative (this is the term used to describe an executor or administrator who is responsible for administering an estate) there is a lot to consider.

Coming to terms with a loss whilst trying to navigate the legal complexities of Probate and Estate Administration may be overwhelming.

If you would like to find out more about the options of assistance we offer, please do contact us.



*If you have any questions about your Will or need help with planning your estate, we are always happy to provide you with expert advice and guidance suited to your needs and circumstances.*

You can also make an LPA to run alongside an EPA if you wish. For example, you may have an Existing EPA that makes provision for decisions about your property and affairs and decide to make a Health & Welfare LPA to run alongside that, to provide for decisions concerning your healthcare and welfare.

### **Revoking (cancelling) and existing EPA**

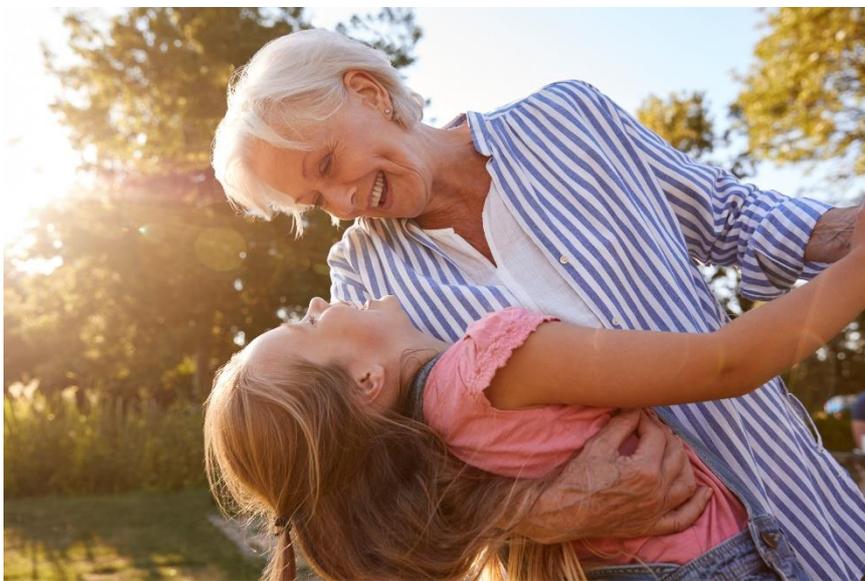
You may also consider replacing your unregistered EPA with a Property and Financial LPA. You can revoke an unregistered EPA at any time whilst you have the mental capacity to do so. However, if the EPA has been registered, it cannot be revoked except by permission of the Court of Protection.

If you wish to find out more about Enduring Power of Attorney or Lasting Power of Attorney, please do contact us.

### **How do I know if my will is valid?**

As soon as your Will has been signed correctly it becomes a valid legal document.

You must also have two witnesses present with you as you sign the Will. Your witnesses can be anybody you like, but they cannot be beneficiaries or be married to or is a civil partner of a beneficiary otherwise they would not be entitled to gain anything from the estate.



### **How long does my will stay valid for?**

We have heard reports of people in certain professions such as teachers being contacted to tell them that the law has changed thus invalidating their Will. Another rumour is that after 3 years have passed a Will is no longer valid, however this is simply not the case as there are no time limits placed on Wills. Once it is signed it becomes a valid legal document and will stand until you either write a new one or destroy it.

It is worth bearing in mind that marriage revokes a Will unless the Will says otherwise. It is advisable to review and update your Will periodically, usually every 3-5 years, especially if there are any changes in your personal circumstances such as marriage/divorce or the birth of any children/grandchildren that you'd like to provide for.

If you think your Will needs changing or updating in any way, we strongly advise against making any amendments yourself. Please do not write on, or pin/clip anything to your Will as this can often lead to questions around your intentions and may also not be legally valid. It may also lead someone to believe your Will has been tampered with which could bring about a claim on your estate after you have passed potentially causing a lot of heartache for your family and unnecessary purpose.

We will keep in touch during your lifetime to ensure that your document still suits your needs and contact you every three to five years. However, if you're ever unsure the best thing to do would be to contact us for clarification.

### **Invest Southwest**

Our sister company Invest Southwest, have an highly skilled and experienced team of Independent Financial Advisers who will be happy to provide a free, no obligation discussion about your Pensions and other financial objectives.

If you feel this would benefit you, then please do let me know.



INDEPENDENT FINANCIAL ADVISERS

*If you have any questions about your Will or need help with planning your estate, we are always happy to provide you with expert advice and guidance suited to your needs and circumstances.*