

Death of a person with no known next of kin or Will - the estate and personal possessions



1 Introduction

This briefing note is for each Adult Social Care practitioner/social worker/ Operational Support Service (OSS) to clearly understand their role when the deceased, to whom Adult Social Care (ASC) were providing care and support, appears:

- not to have made a Will, and
- there are no known blood relatives, and
- there is an estate (money, property, personal effects). Some personal effects maybe in ASC safe keeping¹ and/or left in deceased home (e.g. the care home, supported living etc).

The practitioner/social worker to apprise²(MOSAIC) OSS, (formerly known as RMA) of the situation. OSS will make the arrangements described in sections 3.1, 4, 5 and 6 if the Financial Affairs Team (FAT), within Client Financial Services, were not managing the persons finances prior to death.

OSS may enter a deceased property for the purposes of locating a Will and/or other personal papers (e.g. bank statements, details of assets and liabilities).

Please note that in these cases, FAT do not make decisions about the deceased personal possessions.

2. Probate³

Only certain people can [apply for probate](#) in order to deal with the estate. It depends on whether the person who died left a Will.

KCC is prohibited from applying for a Grant of Probate to administer a deceased estate, even if FAT were the public authority deputy for Property and Finance.

2.1 A Will

When there is a Will, the executors (people responsible for dealing with the estate) are usually named in it. They can apply to the probate registry for a “Grant of Probate” or may prefer to pay a probate professional/specialist (usually a solicitor or accountant) to apply for “Grant of Probate”.

If there are no executors named or none of the executors are prepared to act, a beneficiary of the Will can apply to the probate registry for a “Grant of Letters of administration”

¹ Kent County Council has a duty to protect the moveable property and/or assets of adults being cared for away from their community setting home (whether permanently or temporarily) under Section 47 of the Care Act 2014. See separate Protection of Property Policy for full details.

² See section 10 flowchart at the end of this document for MOSAIC summary details

³ There is an application fee to pay if the value of the estate is £5000 or over. Probate may not be required if deceased had jointly owned assets or only had savings. Each asset holder (e.g. bank or mortgage company) will be able to advise if probate required to get access to deceased assets.

Death of a person with no known next of kin or Will - the estate and personal possessions



A *Grant of Probate* may not be required if the estate is of low value. A relative may find banks or other organisations are prepared to release relatively small sums of money after seeing a copy of the death certificate. Please note that joint assets such as bank accounts generally pass automatically to the surviving owner.

2.2 No Will but relatives

When there is no Will, the spouse (husband or wife) - even if were separated; civil partner or child can apply for Grant of Probate to administer the estate. The relative may prefer to pay a probate professional/specialist to apply for Grant of Probate.

3 No Will or known relatives

If the deceased has died intestate (without a Will), without any known entitled blood relatives and the net value of the estate is **over** £500 (after funeral expenses deducted), the estate of the deceased passes to the Crown. The Treasury Solicitor acts for the Crown to administer the estate. See 4 below.

Before OSS make the referral to the Crown, it is important to be satisfied there are no surviving blood relatives or Will. The services of a genealogist's must be arranged. See 3.1 below. Note if a Will is located or a relative makes themselves known to the Crown, through its own processes, the Crown will halt the referral and contact OSS (the referrer) to progress with the relative/ executor.

3.1 Tracing relatives

Step one: On MOSAIC, the practitioner/social worker to initiate the Date of Death Notification step. The practitioner/social worker sends a next action of 'Genealogist Searches Being Undertaken' assigned to OSS. See MOSAIC user guidance for full details.

Step two: Before a genealogist search undertaken, OSS to liaise with the relevant district/borough council for the deceased, checking if undertaking its own genealogist search under Section 46 of the Public Health (Control of Disease) Act 1984 duty to arrange burial or cremation of any person who has died in its area (in the absence of known or willing relatives or prepaid funeral plan in place). **See section 8** about **Funeral Arrangements**.

Step three: OSS to contact a genealogist service (*FAT maybe able to suggest a service they have used*) to locate surviving relatives or a Will. An international search may also be required (and specifically requested), particularly if the deceased was from a **Black** or **Minority Ethnic** group. The service will not usually charge KCC to undertake the tracing. This needs to be confirmed. If relatives are found, fees paid/owing to the service are recoverable from the deceased estate (See paragraph 4.1 for process to claim outstanding ASCH debt (Social Care or Sundry).

Step four: Surviving relatives or Will located by the genealogist service. OSS will contact the relative/executor (ensuring proof of identity) and pass on all personal papers and details of assets

Death of a person with no known next of kin or Will - the estate and personal possessions



and liabilities etc. It is then the responsibility of the relative/executor to apply for probate or pay a professional /specialist to apply for *Grant of Probate* to administer the estate⁴. No documents/personal papers to be passed to relatives/next of kin until the *Grant of Probate* / Letters of Administration are received.

Note: if *Grant of Probate* not required i.e. the deceased only had savings, documents/personal papers etc to be passed to the relative (subject to proof of identity check by OSS) and satisfied the person is a relative and the asset holder has confirmed with the relative probate not required.

Once OSS has completed the searches, OSS to choose a relevant next action (Searches not required / Searches Completed / Case Closure) and finish the 'Genealogist Searches Being Undertaken' workflow step.

4 If no surviving relatives traced- referral to the Crown

If the deceased has died intestate⁵ (without a Will), without known kin (entitled blood relatives) and the net value of the estate is over £500 at the date of death (after the deduction of the funeral expenses), OSS will make arrangements to refer the deceased person's estate to the Crown. HM Treasury is then responsible for dealing with the estate. The Treasury Solicitor acts for the Crown to administer the estate. [Click here for link to Gov.UK guidance – Referring a deceased persons estate to the Treasury.](#)

The Bona Vacantia division publishes a list of unclaimed estates which have been recently referred, but not yet administered. After a 90 day period, if a claim to an estate has not been submitted to the Bona Vacantia division, OSS will send information about benefits, banks statements, utility bills (if applicable) etc when requested by the Bona Vacantia division. OSS involvement will remain in place until asked to release funds to HM Treasury.

4.1 Debt recovery.

The Debt Recovery Team within Client Financial Services will contact the administrator to arrange repayment of outstanding KCC Social Care debt (the deceased unpaid contribution to their care and support costs). Sundry Debt Recovery team in Cantium will pursue non-Kent Care Account debt (sundry debt) if applicable.

If KCC paid for a funeral, the cost incurred (sundry debt) is recoverable from the administrator of the estate through submission of a AR01 form⁶. Note, funeral expenses are the first charge on the estate which means payment of them takes priority over other debts). In addition, costs associated with temporary storage (sundry debt) of personal possessions (read section below *“What happens*

⁴ Probate may not be required if deceased had jointly owned property of money (which passes to a spouse or civil partner) or if deceased only had savings or premium bonds. Each asset holder (e.g. bank or mortgage company) will be able to advise the relative if probate required to get access to deceased assets. See note below.

⁵ Bona Vacantia is the name given to ownerless property which passes to the Crown- the Bona Vacantia division

⁶ The AR01 (invoice request template) form is used to request an invoice to be issued to someone outside of KCC.

Death of a person with no known next of kin or Will - the estate and personal possessions



to personal possessions pending tracing or referral to the Crown”) should be claimed from the deceased estate through submission of a AR01 form. OSS budget will pay for the temporary storage if required and submit AR01 form/s to seek reclaim for storage costs.

4.2 If the estate is less than £500

Items may be gifted to a registered charity such as charities to support vulnerable people. OSS will identify the charity or charities, (which may be Kent County Council Chairman nominate charity [click here](#)) and make the arrangements. An inventory of items gifted to include a brief description of item/s, gifted to whom and why. Obtain *evidence of receipt of the gift/s* from the recipient, OSS upload receipt to the persons record system with the inventory.

5 What happens to personal possessions pending tracing or referral to the Crown?

Obvious rubbish or ruined goods may be thrown away. OSS will write an inventory in case entitled relatives are traced/make themselves known. If in doubt what to throw away, retain until the deceased estate is dealt with. This may require ASC arranging temporary storage. Delegated authoriser approval required if temporary storage costs expected. See section 6 if the deceased rented accommodation.

6 Termination of Tenancies before Treasury Solicitor administration

Where the deceased was living in rented accommodation, it may be in the best interests of the estate for the tenancy to be terminated before an administrator has been appointed. This could be appropriate action by OSS to prevent rent arrears building up, and to release the property back to the landlord (or the landlord may decide to end the tenancy when the property has been emptied). Considering any interest, the Treasury Solicitor (Bona Vacantia division) may have in the estate, they would have no objection to a tenancy being terminated provided that:

- the furniture and effects are disposed to the best advantage of the estate
- the deceased's personal papers and details of assets and liabilities are retained and protected

7. Role of Financial Affairs Team (FAT) within Client Financial Services

When FAT, prior to death, were managing a person's finances as an appointed *public authority deputy*, the team will make arrangements to contact a genealogist's service to trace blood relatives and, if necessary, refer to the *Crown Treasury Solicitor*. Alternatively, if the deceased has an outstanding Social Care debt, the Debt Recovery Team within Client Financial Services will

Death of a person with no known next of kin or Will - the estate and personal possessions



make the arrangements described above. For AR01 submissions -Sundry Debt Recovery team in Cantium will pursue the amount/s owing.

8. Funeral arrangements

[Section 46 of the Public Health \(Control of Disease\) Act 1984](#) imposes a duty on district/borough councils to arrange burial or cremation (aka *public health funeral* or *Pauper Funeral*) of any person who has died in their area (in the absence of known or willing relatives or prepaid funeral plan in place) and may claim the costs of the funeral from the deceased's estate (if there are sufficient funds). The district/borough councils may undertake genealogist searches.

There may be exceptional circumstances when ASC takes the decision to exercise its power under section 46(2) and (5) of the Public Health (Control of Disease) Act 1984 to make the arrangements to bury or cremated the body of a deceased person who immediately before his death was being provided with "accommodation" under the Care Act 2014.

In relation to KCC funeral arrangements practice guidance, "accommodation" under the Care Act 2014 means a KCC managed care home or integrated care centre only (not supported living/extra care housing/shared lives). More details in the separate Funeral Arrangements Practice Guidance on KNet.

Once OSS has established there are no relatives or friends willing to undertake the funeral arrangements and that no other arrangements have been made (e.g. with the district council/NHS Trust, or no prepaid funeral plan), OSS will make the funeral arrangements.

There may be exceptional circumstances when funeral arrangements required before the OSS genealogy search completed (e.g. funeral director does not have facilities for long term storage).

9. Useful websites

Make a claim to a deceased person's estate: [Find out if you are an entitled relative and how to claim an estate from the Bona Vacantia division](#)

[Bona Vacantia Referrals, Applications and Kin claims](#)

[Applying for Probate](#)

Refer a deceased person's estate to the Treasury Solicitor: [Notify the Bona Vacantia division that a person has died without leaving a will or any known blood relatives](#)

[Proof of identity checklist](#) for individuals: : Bona Vacantia division

Death of a person with no known next of kin or Will - the estate and personal possessions

10. Deceased estate - simple flow chart for OSS.

