

This article outlines the process of organising and preparing for a funeral service including the steps taken when someone passes away, the legal obligations related to someone's passing and the roles and contributions of the various people involved.



#### **A. WHAT TO DO WHEN SOMEONE PASSES AWAY**

When someone has passed away, the first thing to do is to notify relevant parties including local law enforcement (if the death was due to unknown circumstances), family members, a legal representative of the deceased if they had one, and a doctor or coroner.

A doctor must then sign a certificate confirming the death and cause of death, after which a funeral director or company may proceed to take the deceased into their care. A signed Death Certificate must first be obtained before funeral arrangements can be made.

If the death occurred at a nursing home or hospital and was expected, the process is generally straightforward as a doctor will be readily available to sign the Death Certificate and confirm the cause of death, and staff will be prepared to arrange this.

If the death was unexpected and occurred elsewhere such as at home, a doctor will need to be called to pronounce the death and issue a Death Certificate. Some deaths may need to be reported to a coroner, for example, if it was a violent or unnatural death, a sudden death, or under suspicious circumstances [*Coroners Act 2009* (NSW) section 6].

#### **B. WHO TO NOTIFY**

The next of kin or executor under the Will of the deceased has the responsibility to provide details of the deceased within one month of the death to relevant authorities, so that the death can be registered.

The NSW Registry of Births, Deaths and Marriages must be notified by applying for the relevant certificate. Applications for Death Certificates may be made online, by mail or in person at a Births, Deaths & Marriages Registry Office or at a Service NSW centre.

There is a standard fee of \$56.00 for Death Certificates.

More information regarding this is available here: [www.bdm.nsw.gov.au/Pages/apply-for-certificates/apply-for-certificates.aspx](http://www.bdm.nsw.gov.au/Pages/apply-for-certificates/apply-for-certificates.aspx).

Other services and organisations that would need to be notified include the following:

1. The Australian Department of Human Services - this relates to Centrelink, Medicare and Child Support records. The Department of Human Services may be informed via by phone on 132 300, visiting a service centre or by completing an "Advice of Death" form and mailing it. This form is available here: [www.humanservices.gov.au/individuals/forms/sa116a](http://www.humanservices.gov.au/individuals/forms/sa116a)
2. The Australian Taxation Office
3. Banks
4. Health fund memberships - cancellation of Medicare card and the transfer or cancellation of private health fund membership
5. Accountant or financial adviser
6. Roads and Maritime Services (RMS)
7. Australia Post - redirect mail addressed to the deceased
8. The deceased's local Council
9. Superannuation and insurance companies
10. Share and investment companies
11. Utilities under the deceased's name, including gas, electricity, phone and internet companies

Any other services that were under the deceased's name.

For further details, see this checklist compiled by the Australian Department of Human Services: [www.humanservices.gov.au/sites/default/files/documents/who-to-notify-checklist.pdf](http://www.humanservices.gov.au/sites/default/files/documents/who-to-notify-checklist.pdf).

#### **C. ARRANGING A FUNERAL**

Often, a funeral director is appointed during this difficult and sad time to assist in the preparation and organisation of a funeral. The funeral director requires the original Death Certificate of the deceased person.



There are various decisions to be made regarding the funeral, including:

1. Whether the deceased is to be buried or cremated;
2. Consideration of any religious or cultural traditions that the deceased associates with;
3. The venue of the funeral procession (e.g. a church or funeral home);
4. What type of music, decorations and casket to use; and
5. Who will conduct the ceremony (e.g. friend, family member or priest).

All of these decisions can be made through consultation with a funeral director.

A funeral director is required by law (under section 101D of the *Fair Trading Amendment (Funeral Goods and Services) Regulation 2008*) to provide prospective customers with:

1. Information about their basic funeral service;
2. A reasonable estimate of costs; and
3. A statement of each of the funeral goods and services provided to the customer with their costs, and the total amount payable before accepting final payment.

#### **D. FINANCIAL MATTERS**

##### **D.1. COSTS OF A FUNERAL**

Funerals can be expensive and would depend on a variety of factors such as:

1. Funeral director or service provider;
2. The coffin, casket or urn;
3. Purchasing the land where the deceased is to be buried;
4. Cremation fees;
5. Arranging memorials; and
6. Transportation, decorations, and other arrangements for the funeral service.

Fees for funeral directors vary widely depending on the type of ceremony one desires. There are also additional costs associated with hiring venues, caring for the deceased and transportation of the deceased, which are part of the disbursements of a funeral director's fees.

Coffins or caskets are generally between \$1,000 and \$4,000 but can exceed \$10,000. A major component of funeral costs comes from the purchase of a burial site and headstone. The cost for this averages between \$5,000 and \$10,000.

The costs for cremation is typically cheaper than burial, and averages around \$1,000. After cremation, the ashes may be: scattered at a mountain top or in a lake; stored in an urn which may be purchased; or placed into a container of your own choosing (must have a lid).

##### **D.2. FINANCIAL ASSISTANCE**

Since funerals may be costly, there are some allowances that can assist in paying the fees involved. The costs are usually paid from the deceased's estate, however, financial assistance through Centrelink is available for:

1. Married pensioners - where a pensioner's partner passes away, they are eligible to receive a further 14 weeks' payment of pension, generally as a lump sum.
2. Single pensioners - the estate of a pensioner receives one more fortnightly payment of pension.
3. Sole spouse - where someone's spouse has passed away (and they have no dependent children), the remaining spouse receives a bereavement allowance of 14 weeks' payments.
4. Carers pension - where a pensioner passes away, the carer is eligible to receive a further 14 weeks' payment of their pension, generally as a lump sum.

##### **D.3. DISTRIBUTING THE DECEASED'S ASSETS**

Before formally distributing the deceased's assets, a probate must first be granted.

A grant of probate is applied for and obtained through the Supreme Court (of the State of Territory in which the deceased lived). This involves several documents to be lodged, which can be prepared with our law firm's help.

Afterwards, using the grant of probate, the deceased's assets can be distributed to their relevant beneficiaries.

You may wish to read our legal article [Probate and Letters of Administration](#) for further information.

**Comasters can advise clients with arranging funerals and subsequently distributing the assets of the deceased.**

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