

## **Your rights in the AIDS era. 11, Acting as executor / Immunity.**

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**immunity**

Society for HIV Research and Education

# YOUR RIGHTS IN THE AIDS ERA

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**11** Acting as  
an executor

## What's an executor?

When someone dies someone else has to look after the distribution of everything they had – as well as making plans for the funeral – and that job falls to the dead person's executor.

If the person who has died left a will they will usually have asked someone to act as their executor.

If they died without making a will, the executor's job is done by someone who's appointed. In which case they're called an administrator.

## If I'm appointed as someone's executor do I have to act?

No-one can be made to act as an executor. Usually you'll have been asked. But someone could have appointed you as their executor without your consent.

Whether you have been asked or not, you don't have to act if you don't want to.

## What's the difference between an executor and an administrator?

As we said at the start of the leaflet someone appointed in a person's Will to carry out their wishes and instructions is called an executor. But in cases where there is no Will or where the executor is dead or does not want to act, these duties are carried out by an administrator.

In most cases it is necessary to apply to the Probate Registry for authority to act on the winding up of the estate of someone who has died. If there is a Will the authority the executor gets is called a Grant of Probate. If there's no Will, the administrator gets a Grant of Letters of Administration.

## Are the jobs of executor and administrator different?

There are many differences.

For example, an executor has the job of arranging the funeral whereas if there is no Will funeral arrangements will be dealt with by the family.

An executor will distribute the estate as instructed in the Will. An administrator will pay out to the people entitled by law, whatever the person who died wanted.

A Grant of Probate dates back to the death so an executor can do many things, like dispose of furniture, before the Grant is issued. That is not the case with Letters of Administration, where everything except the funeral has to wait until the Grant has been obtained.

## What is the first job to be done?

The first task is to arrange the funeral. Check if the person who has died has asked for any special arrangements to be made. These may be in the Will or in a letter left with the Will.

They are not absolutely binding but such wishes should normally be respected. They may have been particularly mentioned to avoid difficulties with members of the family.

## What should I know about funerals?

The undertaker will advise you fully so do not try to do it all yourself. Don't tell people the date of the funeral until you're sure there will not be a post mortem or inquest that may cause delay.

Remember there may be special safety arrangements that make viewing of the body difficult. There are regulations which make it possible for the authorities to control the removal of a body

from hospital but these will not be used to interfere with normal funeral arrangements.

## **Should I do anything else before I arrange the funeral?**

Make sure there is enough money in the dead person's estate to cover the cost of the funeral. The cost is payable out of the estate – but if you take it upon yourself to make the arrangements and there is not enough money then you may find yourself personally responsible for the cost.

## **What if there is no money to pay for the funeral?**

It may be possible to get money from the Department of Social Security for a basic funeral, but it is best to enquire before making arrangements as there are strict conditions. If no one is prepared to make arrangements the local authority has an obligation to do so.

## **Does the body have to be cremated?**

No. Contrary to popular belief there is nothing to prevent burial.

## **Can a body be transferred abroad?**

That depends on the laws of the country involved. We've found this is generally possible if that is what the dead person wanted.

## **What are other duties do executors or administrators have?**

After arranging the funeral you must find out the details of the assets of the estate – everything the dead person owned – and the debts and liabilities.

## **Do I need to employ a solicitor?**

That depends on how complicated the dead person's affairs are. If there is a house or flat you may have to employ a solicitor as this will have to be transferred to the person who is entitled to it. In that case you could still get the Grant yourself and then get the solicitor to deal with the house or flat.

And if there is no Will you may need advice on who is entitled to the property left by the person who's died.

The rules are complicated and there are a lot of wrong ideas flying round as to who may or may not be entitled to share in the estate.

## **What if I decide to go ahead by myself?**

You can make a personal application to the Probate Registry. You will still need to have found out all the details of the assets and liabilities of the estate because you will need to have these available when you visit the Registry.

## **Where do I go to make a personal application?**

There is a personal applications department in London – the number's in the phone book – and each District Probate Registry has facilities for personal applications.

Your local Citizens' Advice Bureau will tell you the address of the nearest Registry and give you general advice on procedures.

## **Is a Grant of Probate always necessary?**

In the case of small estates, that is where the money with banks and so on is less than £5000 altogether, you may be able to collect the assets together simply on production of the Will and death certificate.

If it is a small estate like that, it is worth enquiring from the places where the money is whether they are prepared to pay out. They don't have to pay and if they won't, you'll have to get a Grant of Probate.

## **What if there is not enough money to pay the debts?**

In that case, get legal advice. There is a strict order in which debts should be paid and if you get it wrong you may land yourself with unpaid debts. If you pay in the correct order neither you nor any members of the dead person's family are responsible for unpaid debts.

## **Is there anything I should specially look out for?**

Don't forget income tax. Always ask the tax office – if you don't find which office is the right one among the dead person's papers, ask their employer. There may be tax due especially if the dead person was self-employed. Or there may be a tax rebate due if the dead person worked under PAYE.

## **Can I claim fees for being executor?**

No, not unless you are a professional person and the Will specifically allows you to charge fees. You can, however, claim out of pocket expenses including the cost of advertising for people who are owed money by the estate. These expenses are payable out of the estate in preference to other claims, except the funeral.

## **How do I finish winding up the estate?**

To protect yourself it is best to advertise for creditors. This needs to be done in the London Gazette and a local paper. If you look in these you will see how it is done. If you advertise, you are not personally liable if you have distributed the estate and an unexpected creditor appears. If you don't advertise, you may be held to be personally liable.

## **What are the final steps?**

Prepare accounts to show where the money has gone. The accounts should be sent to everyone who was entitled to share in the estate and should be approved by them. You should be able to produce receipts for everything you spent.

You are under the supervision of the Probate Registry in dealing with the estate and if the Registry asks for a set of accounts, you have to supply them.

## **A few words of reassurance**

Winding up an estate isn't usually too complicated and you will be carrying out the wishes of someone who had confidence in your judgement.

If you need advice your local Citizens' Advice Bureau will be able to help and – if you live in London – Immunity's Legal Centre can help over the phone or face to face at an appointment.

## LONDON AND NATIONAL GROUPS AND SERVICES

**Afro Caribbean Helpline Service:** Black advisers offering specialised advice and support. Fridays 6pm-10pm, on the National AIDS Helpline (0800-567 123). Calls free

**AIDS and Housing Project:** Write: 16-18 Strutton Ground, London SW1P 2HP

**AIDS Helpline:** Information from the College of Health. Daily, 2pm-10pm

**Asian AIDS Helpline:** Advice given in Bengali, Gujarati, Hindi and English. Wednesdays 6pm-10pm, on 0800-282 445. Calls free

**Cantonese AIDS Helpline:** Advice given in Cantonese. Tuesdays 6pm-10pm, on 0800-282 445. Calls free

**Body Positive:** Mutual help and support group. Drop-in centre at 51b Philbeach Gardens, London SW5. Write: PO Box 483, London W14 0TS. Helpline: (7pm-10pm) 01-373 9124

**Body Positive Support Group:** For newly diagnosed people with HIV infection and others with the infection who are anxious, plus the lovers, close friends and relatives of both groups. Meets Sundays at 12.15pm (for 12.30pm) on the second floor at the London Lesbian and Gay Centre, 69 Cowcross Street, London EC1

**Care and Resources for People Affected by AIDS/HIV (CARA):** Christian group offering support to Christians and non-Christians affected by HIV infection and by AIDS. Write: 178 Lancaster Road, London W11 1QU. Phone: 01-792 8299

**Dentists who treat people with HIV infection:** NHS Special Needs Dental Clinic, Alderney Street, London SW1. (Mondays, 3pm-5pm, Tuesdays, Wednesdays 9am-12pm) Phone: 01-630 8436 Or: advice on who to see from Mrs Seatchell at City and Hackney Health Authority. Phone: 01-253 3020

**Drug Users and Ex-Users with HIV Infection/AIDS/ARC:** run by Terrence Higgins Trust. Meets Fridays 7pm-9pm at Trust's offices (52-54 Grays Inn Road, WC1) Info: David Bickerton on 01-831 0330

**Ealing AIDS Response:** Local group. Write: PO Box 16, Isleworth, Middlesex, TW7 6AG. Phone: 01-893 8872

**East London HIV Social Group:** Meets Mondays 8.30pm upstairs at the London Apprentice, 33 Old Street, London EC1. Info: Nigel Harvey on 01-377 7458

**Frontliners:** Mutual help and support group for people who have AIDS. Write: c/o Terrence Higgins Trust, BM AIDS, London WC1N 3XX. Phone 01-831 0330

**Haringey Health Authority Helpline:** Counselling and advice on the phone on 01-801 1490/01808-1061, extension 212 (10am-6pm)

**Haemophilia Society:** Information, advice and support for everyone who has haemophilia - and special representation of and support for people with haemophilia infected with HIV by using Factor 8. Write: 123 Westminster Bridge Road, London SE1. Phone: 01-828 2080

**Immunity:** HIV research and health education charity. With full-time specialist legal centre for anyone with a legal problem connected with HIV infection, AIDS or an AIDS-related complex. Advice and court representation on offer. Also welfare rights advice. Open 10am-5.30pm. Phone to fix an appointment. Charity and legal centre at 260A Kilburn Lane, London W10 4BA. Phone: 01-988 8909

**Italian Drug Users and Ex-Users Group:** run by Terrence Higgins Trust. Meets Wednes-

days 6pm-7.30pm at Basement, SCODA, 1-4 Hutton Place, London EC1 8TD. Info: David Bickerton on 01-831 0330 or Dr Massimo Riccio on 01-352 8161

**The Landmark:** Day centre for people who have HIV infection and people who have AIDS. Will offer advice, recreational facilities, meals. Plus info for other people. 47 Tulse Hill, London SW2. Phone 01-871 7811/2

**Lesbian Employment Rights:** Non-AIDS specialist. Good on rights at work. Address: as LAGER Phone: 01-587 1636 (Mon-Thur 7pm-10pm)

**Lesbian & Gay Employment Rights (LAGER):** Specialist in rights at work. Mainly men. Write: Room 203 Southbank House, Black Prince Road, London SE1 7SJ. Phone: 01-587 1643. (Mon-Fri, noon-6pm)

**London Lesbian and Gay Switchboard:** The original helpline. Not an AIDS specialist - but helpful. Write BM Switchboard, London WC1N 3XX. Phone: 01-837 7324 (24hrs)

**London Lesbian Line:** Information, support and advice for women. Phone 01-251 8911, Mondays and Fridays 2pm-10pm, Tuesdays-Thursdays 7pm-10pm

**London Lighthouse:** Hospice and drop-in centre. Offers counselling, health advice, support at home, breaks for carers and terminal care. 111 Lancaster Road, London W11 1QU. Phone 01-792 1200

**Mainliners:** Group for ex-drug users - and drug users who get their supplies on prescription - who have HIV infection or AIDS or a related condition. Write: PO Box 125, London SW2 8EP. Helpline: 01-738 7333. Mon-Fri, 10am-6pm

**National AIDS Helplines:** Phone - free of charge for free lesbians (0800-565 777) or confidential advice (0800-567 123). 24 hours a day

**North London Social and Support Group:** Info: Joe on 01-482 4107

**Nurses Support Group:** Runs helpline for healthcare workers who need advice and help on HIV problems, Mondays and Wednesdays 7pm-10pm, on 01-708 5605

**Positively Women:** Group of women who have HIV infection or have AIDS. Meets in central London. Info: 01-837 9705 (Mondays-Fridays, 10am-5pm)

**Project for Advice, Counselling and Education (PACE):** One-to-one counselling and training in counselling. Meetings and write c/o London Lesbian and Gay Centre, 69 Cowcross Street, London EC1. Phone: 01-251-2689

**South London Support and Social Group:** Info: Rick, 01-675 3919

**Standing Conference on Drug Abuse (SCODA):** Information officer keeps up-to-date list of needle exchange schemes. 1-4 Hutton Place, London EC1. Phone: 01-430 2341/3

**Terrence Higgins Trust:** Information and counselling about HIV infection and AIDS. Plus support groups and trained volunteers to help people with HIV infection and people with AIDS. Write: BM AIDS, London WC1N 3XX. Phone: 01-831 0330 (admin only) 01-242 1010 (helpline, daily, 3pm-10pm)

**Women's Health and Reproductive Rights Information Centre:** Not an AIDS-specialist - helpful. Advice on all health issues affecting women, including HIV infection and AIDS. 52-54 Featherstone Street, London EC1. Phone: 01-351 6332

**Women's Support Group:** Run by Terrence Higgins Trust. Info: 01-831 0330

## What's AIDS?

AIDS is short for the Acquired Immune Deficiency Syndrome. If you have AIDS your body's defence system against all sort of infections is weakened so much you catch diseases which people whose immune systems aren't affected can just shrug off. And, when you catch them, the diseases turn out to be much more serious than they are in people with healthy immune systems. Nobody knows for certain, but it look as if everyone who has AIDS dies of one of the diseases they catch, such as a fairly rare form of pneumonia. You can't catch AIDS. It develops in you for some reason. HIV probably causes that to happen.

## What's HIV?

HIV is short for the Human Immunodeficiency Virus. It was first discovered in 1983. Since then it has been called LAV and HTLVIII. But since 1986 the proper name for it has been HIV. It may cause AIDS to develop in you. You can catch HIV infection by allowing your body fluids — blood, semen or vaginal fluids — to become mixed with the body fluids of some who's already infected. HIV isn't like most viruses because, when you're infected it lives inside blood cells which are part of your body's defence system.

## What's Immunity?

Immunity is a charity started in 1985 to research into HIV. Its aim is to find some way of helping people who have HIV infection stay well longer. It also runs fitness classes and produces education leaflets and relaxation tapes. With funds from the London Boroughs Grants Scheme, Immunity runs a legal centre in London to give advice and assistance to people who have HIV infection and people who have AIDS. Phone first before visiting to fix a time to call. The address and phone number are at the bottom of this page.

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