

Coping with the incapacity or sudden death of a sole practitioner

Information sheet giving advice for coping when a sole practitioner becomes ill or dies unexpectedly.

It is a difficult time whenever someone dies, but if it was unexpected or sudden then all sorts of additional problems can arise and cause extra worry for those left behind.

Specialist teachers and assessors are not immune and the impact of a sole practitioner dying unexpectedly can be particularly difficult to cope with – especially if prior arrangements have not been made to cover such an eventuality. PATOSS recommends that sole practitioners have alternate arrangements in place.

This information sheet identifies the key steps to consider if you are assisting the family or others to deal with the unexpected death of a sole practitioner. As no two circumstances are the same it cannot provide definitive guidance but is a good starting point to getting things in order.

Alternate arrangements

Look through the practice and personal papers of the practitioner to see if you can find any record of a formal arrangement with an alternate. If such an arrangement has been put in place then contact the alternate to let them know what has happened and ask them to take up their position.

Unfortunately, you may find that the alternate is no longer contactable at the address or number left by the practitioner. If this is the case you could search for the member on the PATOSS website to find more up to date details.

If you cannot trace the alternate, the alternate has also died or there appear to be no arrangements in place then you will need to take other steps to deal with the practice.

Decide whether to continue, sell or close the practice

The executors of the sole practitioner will need to make a decision whether or not to try to continue the practice, sell it or close it down completely.

The executors may decide that it is easiest simply to close the practice but in other cases the executors and dependants may be keen to get some value from the practice. In these circumstances it is important to move quickly as the value of a practice can quickly dissipate.

Notify clients

It is important to let the clients know what is happening. You should be able to find a client list among the practice papers and use that to contact the clients to let them know of the death of the practitioner and what decision has been reached about the practice.

If the practice is to continue either temporarily or permanently let the clients know who they will now be dealing with and what arrangements have been made to continue to look after their affairs.

If the practice is to be closed the clients will need to know that they must make alternative arrangements. If this is the case, you may need to provide handover information to the new accountant in due course.

Client files

Dealing with the client files of a deceased practitioner can be difficult. Claims can still be made against the practitioner's estate relating to work undertaken by the practitioner. It is important therefore that you can continue to access the information held on client files. However, the clients or their new specialist teacher/assessor will also need access to some of the information. For these reasons you should seek advice from the practitioner's professional indemnity insurers. They may have specific retention requirements and also be able to advise on the handover of information to clients or their new providers. You will also need to consider any statutory retention periods.

If files are passed on for any reason or otherwise stored you should ensure that you will still be able to access information should you need to. You may also want to try to limit or exclude any potential liability of the practitioner's estate. As the validity and effectiveness of any such agreement will be subject to legal restraints you may want to take legal advice before proceeding.

When the time comes to destroy the records don't forget that they contain confidential information and that you will therefore need to arrange for secure destruction.

Whatever you decide you should let clients know what arrangements are being made.

Professional Indemnity Insurance

It is important that the professional indemnity insurers are notified of the death as soon as possible as failure to notify them could potentially invalidate the cover provided.

It may be possible and advisable to have run-off cover for two years after the date the practice ceases. A decision will need to be made whether or not to continue with such insurance cover – this will be affected by whether or not the practice is continuing in some format and the perceived risks.

A claim may be made against the estate for the actions of the deceased practitioner.

Client and business bank accounts

It is likely that the practice bank account would be in the practitioner's sole name in which case no one else will be able to access those accounts until the estate is sorted out.

If an alternate is appointed they will need to open new 'temporary' bank accounts until probate is granted at which stage the accounts can be combined.

HMRC and Companies House

It may be sensible to contact HMRC, particularly if the practitioner died close to filing deadlines – and in particular the 31 January deadline. In such circumstances HMRC are usually sympathetic in giving extended filing deadlines. It may also be a good idea to contact Companies House in relation to their filing deadlines and they also are likely to give a period of leave to submit returns in such circumstances.

Other sources of support and advice

Other useful sources of support and advice can be found locally. You may benefit from contacting your doctor, local Citizens Advice www.citizensadvice.org.uk or one of the bereavement charities such as Cruse Bereavement Care www.cruse.org.uk . You will be able to find details in your local yellow pages or by doing a web search.

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