

Post-Death Red Tape



Overcoming Legal, Financial and Administrative Obstacles

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EXECUTIVE SUMMARY

Through its work informing, empowering and supporting older Victorians, COTA Victoria is aware that many people struggle to deal with the legal, financial and administrative requirements expected of them when their partner dies – often a time when they are at their most vulnerable, both emotionally and financially.

The following critical issues have been identified in COTA's work:

Income reduction

Many people who are in receipt of an Aged Pension or a Carer's Pension, are faced with having their income halved at a time when they are being asked to pay costs to change legal documentation, household accounts and financial documentation into a single name.

Utility notifications

The legal process required by Government Departments, Local Government, utility and telecommunication companies is complex and there is no regulation or standard practice relating to what is required for a person to change details into their name.

Death Certificates

There is no clarification of who can legally request a full Death Certificate. It is confusing for people when they are either refused assistance because they have not provided an original or a copy of the Death Certificate or they are told that the Death Certificate has to be sighted before assistance is given.

Speaking in 2014 on the topic of delays and errors in death certificates, John Kaus, the executive secretary of the Funeral Directors' Association of NSW noted:

"It's certainly been very, very difficult for families. They don't need a bureaucratic headache on top of losing a loved one" Likewise, the president of the NSW/ACT division of the Australian Funeral Directors Association, Scott Bance, said these issues caused *'lots of financial problems for surviving spouses and family members.'*

In a domestic partnership, often one party has been solely in charge of the finances and the other party has no or little knowledge of the financial systems and is then confronted with not knowing where to start when having to take over.

Equity

People from non-English speaking backgrounds are particularly disadvantaged in trying to deal with issues pertaining to the death of a partner. Failure to understand what the requirements are and to make their situations clear has resulted in dire and distressing outcomes, including having utilities cut off.

INTRODUCTION

Through its work COTA Victoria has become aware that many people struggle to deal with the legal, financial and administrative requirements when their partner dies – a time when they are most vulnerable both emotionally and financially.

The cost, confusion and time factor involved can contribute to people's sense of powerlessness, anger and stress at a time when they are most vulnerable.

Major issues identified

Several major problems were identified:

1. Income reduction

The complications and delays that may arise from notifying companies/services of the death of a partner, often comes at a time when the spouse finds their income reduced due to having to change to a single Aged or Carers Pension. Administrative delays and complexity often result in increased financial and emotional stress.

2. Death Certificates

There is no standard practice or clarification on which death certificate* can be demanded by government departments or other organisations. Nor is there clarity around whether an original or a certified copy - can be requested by government and other organisations. Without clear guidelines, organisations impose requirements of their own choosing and many refuse all assistance until the required document is produced.

3. Changing account names

Utility companies charge disconnection and reconnection fees to change an account into the surviving partner's name.

Many bills/accounts are able to be put into only one name, i.e. car registration. To have them then transferred into the surviving partner's name requires fees to be paid.

1. Private companies contracted to provide services, i.e. Citylink, will not refund money unless a Death Certificate is produced.
2. The time it takes to deal with companies/government departments can cause both stress and monetary problems by having to pay large phone and utility accounts.
3. Dealing with the banks is both complex and time consuming as they do not always have staff available to assist at branches and they are often told to ring and then are switched to multiple different departments and people.
4. The switching of phone calls to multiple people and departments is also a factor for people dealing with all types of government departments.

4. Equity issue

During the discussions it became apparent that people from non-English speaking backgrounds are particularly disadvantaged in trying to deal with issues pertaining to the death of a partner. Failure to understand what the requirements are and to make their situations clear has resulted in dire and distressing outcomes including having utilities cut-off.

ANALYSIS OF PROBLEMS

UTILITY COMPANIES

In discussion with people it was identified that many had problems changing their accounts into their names.

They found the utilities' phone contacts unhelpful, and the phone calls were both time consuming and costly. They also found their processes lengthy, and this resulted in delays before the account was put into their name. They often were met with a negative response and were often refused assistance until a Death Certificate was received.

In many of the cases people were asked to pay a disconnection and a reconnection fee before the account was put into their name.

CASE STUDY

Ms C lived in a rural area. When her partner died she rang her electricity and gas company who supplied both services. She was transferred to a number of different departments and was then finally told that they could not do anything until they were given a Certified Copy of the Death Certificate.

Several days later the company came out and disconnected both her electricity and gas.

After a lengthy and costly time spent on the phone the company finally agreed to reconnect the supplies but said it would be two days before they could do this.

She rang again a week later to see what was happening but was told by the company they had not received the Death Certificate and they could not talk to her.

She then posted them another copy by registered mail.

She rang again after a week and they said they had received it but had not processed it.

The process took nearly two months and she was also charged disconnection and reconnection fees for both electricity and gas.

TELECOMMUNICATION COMPANIES

Many people said they had tried to search the companies' internet sites before trying to contact them and had found no information on how they could change an account into their name.

They then found that ringing the companies was frustrating, time consuming and unhelpful.

Many found that they had sent a copy of the Death Certificate to then be told that they had to resend a Certified Copy.

They were also charged disconnection and reconnection fees.

CASE STUDY

Mrs. W rang her company and after being switched to several operators was then given a number of their Bereavement Support team and rang them. She was given a lengthy call by one of their team and she found his response unhelpful as he spoke at length about his problems rather than giving her assistance.

After two months she was still receiving accounts in her dead partner's name. She then rang the company and was told they did not know anything about her previous contact.

She was then told she had to supply a Certified Copy of the Death Certificate before they could talk to her. She had been told by the person from the Bereavement Support team that this was not required.

She sent a Certified Copy of the Death Certificate to them, rang them several weeks later and they said they had not received it and they could not talk to her.

She was so upset by the company's response she has not followed up with them and the account still remains in her dead partner's name.

DEATH CERTIFICATES

In discussion with people one of the major problems they have encountered has been the confusion and lack of uniformity in relation to Death Certificates.

There seems to be no formal legal requirement which designates who can request a Death Certificate. This has led to delays for many people in having to supply a Death Certificate before they are given any type of assistance.

Many people found that it was embarrassing and humiliating having to supply an organisation with a copy of a full Death Certificate which showed why their partner had died.

It is difficult to find any clear directions on website what documentation they need when someone dies and even people with good internet skills have been unable to find information.

What has also been identified is that many first contact people in organisations do not have any information or knowledge on how to handle an enquiry.

CASE STUDY

Water Company

Ms W's partner died. She went to her solicitor who was handling the Probate for her late partner's estate. He supplied her with certified copies of a number of Death Certificates so she could change accounts into her name.

She contacted the water company who said she would have to come into their office and present the original copy of the Death Certificate.

She informed her solicitor who rang them and offered to fax them a copy and details and also post them a certified copy of the Death Certificate.

He was informed that they would not accept this and they needed to see the original.

Ms W then went to the company and it took them two hours to change the account into her name. She also had to deal with several people in the company.

CityLink

Ms O's partner had a very small amount of money in his account. She asked that it be transferred into her account but CityLink refused to do this unless they received a certified copy of the Death Certificate. She did not want to do this as she felt she did not want them to know all the details of her partner's death.

Ms L rang Citylink to arrange the statements to be sent in her name when her partner died.

She was informed that she could keep the account open but that she could not receive up to date statements unless she supplied them a Death Certificate. She has not done this and no longer gets statements from them and has to rely on the reminders on the toll road.

Local Library

Mr K's partner died suddenly. He was not a member of the library himself and realised several weeks after her death that there were library books overdue.

He went to the library and they asked that he supply them with a copy of the Death Certificate so that he could close her library account.

When he brought this in they then charged overdue fees up until the day he brought in the Death Certificate.

JOINT ACCOUNTS

Many accounts are able to be listed in one name only i.e. car registration.

On researching VicRoads website information as to how you change a registration into another name in the event of a death is not easily found.

It is also more complex when there is more than one car registered in the dead partner's name.

CASE STUDIES

Ms F had two vehicles registered in her late partner's name. VicRoads were helpful and she received a discount on one of the cars but she had to pay the full transfer fees for the second car.

Mr T had two allocated parking spaces in his block of units which he paid for on a yearly basis.

When his partner died he had only just paid the annual fees for both spaces. He was unable to get a refund for the space that he no longer used, nor was any other visiting car able to use this space.

BANKS AND LOST DOCUMENTATION

Several people spoke about the problems they had when trying to locate documentation that they had lodged with banks previously and the general lack of assistance provided by the banks.

CASE STUDIES

Mr P went to the bank to get the copy of his and his late partner's wills which they had lodged with the bank quite a number of years previously in a safe deposit.

The branch where they had previously lodged the wills had been moved to another location.

The bank said they were unable to locate his safe deposit package.

After many problems and him having to pay solicitor's costs to have the estate settled without a will the bank then rang him two years later to say he owed them money for storage of the safe deposit as they had changed their policy regarding safe deposit packages.

He again went to the branch that still was not able to locate the safe deposit package.

Ms O went to her bank to get her Certificate of Title for her house when her partner had died as she wanted to put the title in her name.

The branch where she had previously banked had changed to another location.

The bank said at first they could not find it. She was faced with the problem of then having to pay to have the title replaced which cost quite a lot of money.

After some time she was contacted by the bank who had finally found the title.

SOLICITORS AND LOST DOCUMENTATION

CASE STUDIES

When Ms U's partner died she had not handled any of their financial or legal works.

She looked through documentation and found that 25 years previously they had had wills drawn up at solicitors.

When she tried to contact the solicitor she found that the firm had closed down and had been taken over by another firm.

The new firm was helpful but it took several weeks for them to go through old files to locate the wills. She was also not aware that the title of the house was stored with the wills.

Mr Y had a similar story to Ms U but the firm that took over did not have previous documentation. He then had to pay the costs of replacing and settling his late wife's estate without the documentation.

TIME FACTOR

Many people indicated that they eventually gave up trying to change accounts into their name as they found the process too difficult and time consuming.

Many had sent several Death Certificates to various organisations only to be told they had not been received.

The length of time spent on phone lines also was a major problem which people indicated had caused them unwanted costs, stress and humiliation.

CASE STUDIES

Mr B had not had any experience handling financial matters. He did not understand the concept of privacy and why he was continually told he could not talk to people.

He gradually became so depressed that he was living in his house without utilities and it was only when a neighbour realized this that he was given assistance.

Ms V had lived in Australia for 30 years but she had always remained at home and her English was still not very good.

She tried to ring to change accounts into her name but was also refused assistance as she was told by government, semi-government departments, local government and companies that they had no record of any accounts in her late partner's name.

Finally, someone became aware of her problems and what had happened was that her late partner had put any accounts into his full name and she had been telling them his nickname which he had used for many years.

What then transpired was that she was charged late penalty fees on many of the accounts. She was also given a letter pending legal action by her council for failure to pay rates.

REDUCTION IN INCOME

What was found on discussion was that many people were struggling financially having to deal with a reduction in income, meeting funeral costs and paying costs to change accounts into their name.

CASE STUDIES

When Ms Q's partner died she was unprepared for how much her income would be reduced on Centrelink.

Her husband had suffered from a long debilitating illness and had required constant care over a number of years. In the months leading up to his death he had required medication, treatment and care which they had had to pay.

Previous to his illness the couple had owned a business which had to be closed because of the illness. Ms Q had worked in the business with her husband for 30 years.

Ms Q was 64 when her husband died. She contacted Centrelink who said that she was not eligible to receive an Aged Pension and she would be required to go onto Newstart and look for work.

Ms J's husband died suddenly. He had started a small business two years previously and she was unaware that he had mortgaged the house and cars as he had always handled the financial matters and she had signed any paperwork without understanding what she signed.

She was 66 when he died. The bank gave her time but she was forced to sell both the house and car to meet the debts from the business. She was then still left with many debts and had no option but to file for bankruptcy.

CONCLUSION

Engagement by COTA Victoria provides robust qualitative evidence around the impact of administering account transfers and closures when a partner, or close family member dies. Many people are left feeling powerless, stressed and intimidated by bureaucracy, at a time when they are facing having to deal with grief and loss.

There is no legal clarification around of who can ask for what documentation resulting in processes being time-consuming, frustrating and often costly.

There is no one service which provides assistance to people around the financial and legal implications surrounding death of a partner.

And the lack of knowledge, consistency and information available has an often hidden, but considerable impact on the surviving partner.

RECOMMENDATIONS

1. To raise awareness of the issue with key players.
2. To develop an advocacy coalition to campaign for legislative clarity or Government guidelines on this issue
3. To obtain funding to research and develop a printed resource for people who lose a partner
4. To disseminate the resource widely (eg to funeral directors, probate lawyers, palliative care workers, hospital social workers)
5. To make the resource available electronically, with a view to broadening into a portal for relevant post-death information
6. To liaise with Government, non-Government and Local Government, banks, utility and telecommunication companies and other identified parties to develop a user friendly system for people who lose a partner. For example, the creation of a single, standardised form, recognised by government bodies, telecommunications organisations, banks and utilities to seamlessly cover all requirements in the transfer of names, etc.
7. To seek an exemption by law from unreasonable charges when a utility or telecommunication services and accounts pass from a deceased partner to a surviving partner.