



## COPING WITH THE INCAPACITY OR SUDDEN DEATH OF A SOLE PRACTITIONER

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### INTRODUCTION

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.

Chartered accountants 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.

Although ICAEW strongly recommends that all sole practitioners have alternate arrangements in place, this is not compulsory and even if arrangements have been made, problems can arise if they have not been kept up to date, if the alternate has moved or does not want to take up appointment.

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, and the alternate is an ICAEW member, you could search for the member using [Find a chartered accountant or firm](#) to find more up to date details.

If you cannot trace the alternate, the alternate cannot act, 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 (perhaps with the assistance of a manager or alternate), sell it or close it down completely.

Factors to consider include whether or not there are qualified staff that might be able to continue to run the practice, the size and value of the client base, the needs of any dependants and the state of work in progress.

If the practice is very small 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 incapacity or 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 sold then let the clients know that they can choose to move to the new firm or make other arrangements.

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.

## **CONTINUING THE PRACTICE**

If it is decided to continue the practice there will be many issues to address including dealing with bank accounts, client money, debtors, work in progress, staff, insurance and other commitments such as leases.

## **SELLING A PRACTICE**

There are a number of commercial practice merger, acquisition and disposal agents who advertise in the professional press. All such agencies will charge a fee for their services (usually based on the price of the transaction) but their terms and conditions vary as will the extent of their services. When dealing with an agency it is best to establish this information at the outset.

Alternatively you might want to take advantage of the local contacts of the executor, practice staff or dependants to find someone interested in buying the practice. Other options include advertising locally or making a direct approach to other local practices.

## **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 accountants 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 accountants. You will also need to consider any statutory retention periods. Further guidance on retention periods can be found in the ICAEW helpsheet [Document retention](#).

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 a practitioner's death as soon as possible as failure to notify them could potentially invalidate the cover provided.

Although ICAEW chartered accountants in practice are required to have run-off cover for two years after the date the practice ceases, this requirement does not apply to non-members administering the estate of a deceased member. 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.

Don't forget that 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 and any client accounts 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 – including a client account, if appropriate – 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.

## GETTING HELP

The circumstances anticipated in this information sheet are difficult to deal with and the situation can soon become very complex. There are a number of sources of help that you may want to take advantage of. Some of these are listed here.

### Support members

Call a support member to discuss the circumstances and talk through the options available to you in dealing with the deceased practitioner's business. This service is free and confidential and often just talking through the issues with an objective outsider can help you to find a way forward. To find out more about this scheme or for contact details of the support members please visit [icaew.com/supportmembers](https://www.icaew.com/supportmembers).

### Legal advice

It may well be that legal advice is needed on some issues. The benevolent association, CABA, offers members a 24 hour legal helpline covering a range of legal matters. Details are available at [www.caba.org.uk](https://www.caba.org.uk). If you are not an ICAEW member you may find the information sheet [Finding a Solicitor](#) helpful.

### Financial support

The practitioner's dependants may want to contact the benevolent association, CABA, for financial assistance and support at this difficult time. CABA also have facilities to provide advice on issues such as benefits and other services that may be available to the family of the deceased. Find out more at [www.caba.org.uk](https://www.caba.org.uk).

### Counselling

A free confidential counselling helpline is available to members' dependants on +44 (0)800 107 6163. This service is funded by CABA with the counselling provided by professionally trained counsellors and advisers. It is available 24 hours a day.

In addition to their counselling service CABA has also partnered with Cruse Bereavement Care and through this can provide access to their network of 5,000 trained volunteers. The partnership with CABA consists of 6 sessions of ongoing telephone support for ICAEW members and their families.

## 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](#) or one of the bereavement charities such as [Cruse Bereavement Care](#) (see also under CABA above). You will be able to find details by doing a web search.

## ABOUT THE SUPPORT MEMBERS SCHEME

The Support Members Scheme provides support to members of ICAEW who are in difficulty. The support members offer totally confidential, non-judgemental telephone or face to face support to members of any age, in any circumstances and relating to your professional or personal life. They are trained to listen and are familiar with all of ICAEW's relevant procedures as well as other specialised helplines and resources. Support members themselves come from a variety of backgrounds but are all members of ICAEW committed to helping other members.

If you feel you could benefit from discussing your situation with a support member, please contact the scheme on +44(0)800 917 3526 or email [support.members@icaew.com](mailto:support.members@icaew.com). Contact information for support members is also available on the website [icaew.com/supportmembers](http://icaew.com/supportmembers).

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