

What happens to debts after death

A guide for people with cancer, their families and friends

Many people affected by cancer worry about what will happen to their debts after they die. They may be concerned their family will be responsible for paying off what they owe. This fact sheet explains what happens.

When a person dies, any money or assets that they leave behind, like property or cars, is called their estate. The estate is used to pay off any debts they owe. Whatever is left goes to the people named in the Will – these people are called beneficiaries.

The Executor is the person in charge of managing the estate. They are usually named in the Will. The Executor's responsibilities include:

- finding out what debts need to be paid
- letting people know the person has died and asking if anyone is owed money
- paying the debts using assets from the estate.

To find out if anyone is owed money, the Executor must advertise for creditors. This means they put a notice in a newspaper or online to give people a chance to contact them if they are owed money.

If there are debts, this is what happens.

- If there is enough money in the estate, the Executor pays the debts in full.
- If there is not enough money, the Executor may need to sell assets to pay the debts.
- If there is still not enough money after everything is sold, some debts may not be paid (see page 2).

If you have to sell any assets to repay debts, it's a good idea to speak to a financial adviser to make sure you understand any tax issues.

- ▶ See our *Cancer and Your Finances* booklet.

Will the family need to pay any debts?

Most of the time, family members do not have to pay the debts of someone who has died. They will only have to pay the debt in the following circumstances:

Secured debts



If they own an asset that was used as security for the debt (see below).

Joint debts



If their name is on the loan as a joint borrower (see below).

Guaranteed debts



If they guaranteed the loan – this means they agreed to pay the debt if the person who borrowed the money could not pay it back (see next page).

Types of debts

When someone dies, their debts are managed in different ways, depending on the type of debt.

Secured debts

These are debts backed (secured) against an asset like a house or car. If payments stop, the lender can take the item and sell it to get their money back. If this happens, beneficiaries do not have to pay the debt, but the estate will lose the asset.

Debts in joint names

If the person who died shared a debt with someone else – like in a joint loan or mortgage – both people

are responsible for paying it. When one person dies, their share of the debt may be paid from their estate. If there is not enough money in the estate, the other person will need to pay the rest of the debt. Having a credit card with someone as an “authorised user” is different – it does not mean they share the debt. Only the main account holder is responsible.

Guaranteed debts

A guarantee is a promise to pay someone else’s debt if they cannot. If a family member or friend guaranteed a loan for the person who died, the lender can ask that person (who is called the guarantor) to pay the debt. If the loan was secured, the lender can also sell the item that was used as security to get their money back.

Unsecured debts

These are debts that are not secured by or linked to an asset, such as a credit card or some types of loans (e.g. buy now, pay later or payday loans). Executors will generally pay these after they have paid the secured debts.

Debts that can’t be repaid

If there is not enough money in the estate to pay all the debts, and the debts are only in the name of the person who died and are unsecured, the debts may not need to be paid. The Executor is responsible for checking if there are any assets available to repay the debts. If there are no assets, they will tell the lenders that the debts will not be paid. Family members will not need to pay anything.

What happens when someone dies without a Will?



If someone dies and has not made a Will, this is called dying intestate. If this happens, the next of kin can apply to the relevant Supreme Court to be the estate’s Administrator. This is similar to an Executor.

► For more information, see our *Estate administration and Planning ahead* fact sheets.

Where to get help and information

Call Cancer Council 13 11 20 for information and support. Our Financial Support Services may be able to provide further information and guidance. You can also visit your local Cancer Council website.

ACT	actcancer.org
NSW	cancercouncil.com.au
NT	cancer.org.au/nt
QLD	cancerqld.org.au
SA	cancersa.org.au
TAS	cancer.org.au/tas
VIC	cancervic.org.au
WA	cancerwa.asn.au
Australia	cancer.org.au

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Note to reader

Always consult your doctor about matters that affect your health, and your financial adviser or financial counsellor about matters concerning your finances, and a lawyer about legal matters. This fact sheet is intended

as a general introduction to the topic and should not be seen as a substitute for medical, legal or financial advice. You should obtain independent advice relevant to your specific situation from appropriate professionals. Laws, regulations and entitlements that affect people with cancer may change. While all care is taken to ensure accuracy at the time of publication, Cancer Council Australia and its members exclude all liability for any injury, loss or damage incurred by use of or reliance on the information provided in this fact sheet.

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Cancer Council acknowledges Traditional Custodians of Country throughout Australia and recognises the continuing connection to lands, waters and communities. We pay our respects to Aboriginal and Torres Strait Islander cultures and to Elders past and present.

