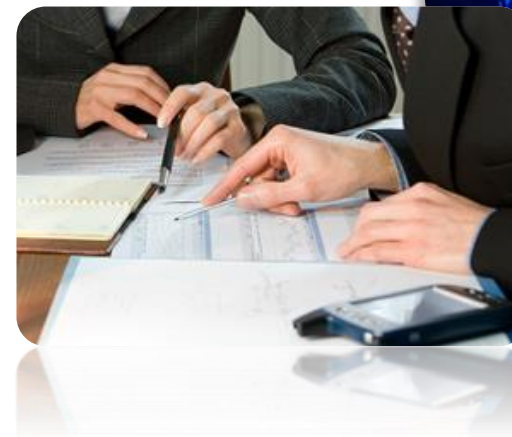


**How to resolve the
financial & legal issues
when someone has
gone missing and is
presumed to have
died**

ridley&hall
solicitors



Generally, you don't have to wait 7 years for a missing person to be presumed dead

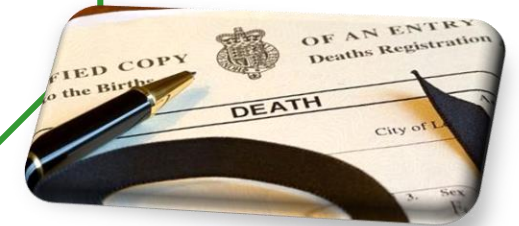
An application for a declaration of presumed death is made to the High Court

Approximately 200,000 people a year go missing in the UK

There is currently no way to 'manage' the affairs of a missing person

You can't usually get a death certificate without a body

England & Wales was last in the UK to pass a Presumption of Death Act, in 2013



MISSING

6 things you may not know ...

Who can make an application for a declaration of presumed death?

When can an application be made to Court?

What effect does a declaration of death have?

**Questions that a family of a missing person
may have...**

What evidence is needed to support an application to Court?

How much will it cost and does the family have to give evidence in front of a judge?

When will the Court make an order?

Who can make an application – and when?

An application can be made at any time after someone has gone missing; and can be made by anyone. But, it should only be brought where there is enough evidence to satisfy a judge that the missing person should be presumed to have died.

The person making the application must be either a close family member or otherwise have a 'sufficient interest'.

If someone has simply gone 'walkabout' and there is no evidence to suggest that they have died, an application should only be made after 7 years.

The Presumption of Death Act 2013 provides that if someone has not been known to be alive for 7 years, a declaration **MUST** be made.



What evidence will a Court require?

Part 57 of the Civil Procedure Rules and Practice Direction 57B set out the procedure that must be followed, and the information required, in a great deal of detail.

A lot depends on the facts of the case, but broadly speaking it's necessary to provide the Court with:

1. Independent witness evidence



2. Applicant's statement



3. Documentary evidence



4. Evidence of search made

MISSING



HAVE YOU SEEN THIS MAN?
Name -----
Age:---, Height:---, Weight---
Last Seen:-----
IF YOU HAVE ANY INFORMATION OR HAVE SEEN
PLEASE CONTACT THE MOBILE IMMEDIATELY.....
PLEASE - INFORMATION NEEDED

The immediate effects



Marriage/civil partnership

A declaration of presumed death brings a marriage or civil partnership to an end.



Ability to administer the missing person's estate

The declaration means that the missing person is presumed to have died and their estate (assets and liabilities) can be resolved. The declaration is sent by the Court to the Registrar General and entered onto a Register of Presumed Death. Then, the person entitled to do so can apply for a grant of probate (or grant of letters of administration if an intestacy arises, i.e. there is no will).



Declarations about property

If there are any issues about property ownership, these can be resolved by the judge making declarations on specific issues.



Other useful information involving a missing person

If a bank/financial institution will not provide information about a missing person's finances, it may be possible to obtain a third party disclosure order from the Court.



A declaration may be varied or revoked by a 'variation order'; so if the missing person reappears an application can be made to the High Court, although a marriage or civil partnership cannot be reinstated, if ended by a declaration.

An advert about the claim must be placed in a local paper and notice of the claim must be served on the close family of the missing person and any 'other person' (including an insurance company) with an 'interest in the claim'.



Practical points...

It normally takes about 6 months to obtain a declaration of presumed death, and may involve 2 court hearings in front of a Judge.

The Court fee (unless you qualify financially for an exemption) is £528. The cost of placing an advert can be in the region of £200-£300.

The average cost of obtaining a declaration is £6000 to £8000 plus vat and expenses.

At Ridley & Hall we are flexible with payment of legal fees and take into account individual circumstances.

Why trust Ridley & Hall to help in missing people cases?

Sarah Young, a partner, is a specialist in the law affecting missing people. Her expertise has been recognised in the latest issue of the legal publication, the Legal 500. She works closely with the charity 'Missing People' and has long campaigned for legislation to be improved in this area.



"Thank you so much for what you have done. I'm still in turmoil and can't really believe that worry will soon be gone. The whole trauma of the situation has at times been impossible to cope with. I don't really know how I've coped – good friends have been amazing. My health has suffered...and I feel about ten years older. Thank god your name was on the internet. I phoned the law society, the citizens advice centre, about twenty solicitors, the Procurator Fiscal in Scotland and the coroners office local to me but nobody could help the trauma I was in. Nobody could help until I phoned your office. I was treated with kindness and given hope that there was something I could do. I'm so thankful for that – at least now I can try and make some sort of sense of everything and try to grieve for my amazing wonderful husband who meant the world to me. I miss him more than words can say.

Thank you again Sarah for giving me hope when no one else could"

- The wife of a missing person

Testimonials

"Really happy that they have took [my husband's] name off the mortgage, I burst into tears when they told me, I am finally free and can look to putting the house on the market now and moving on with my life and I have you to thank for that."

- When J's husband went missing in January 2012 leaving a suicide note in his car, she was devastated. His body was never found. J fell into arrears with her mortgage which was in joint names and was facing repossession. Sarah Young of Ridley & Hall negotiated with the mortgagor and obtained an order for J which enabled her to take out a grant of probate. This gave her the right to benefit from her husband's insurance policy and sell their home."



Next steps?

If you would like to discuss any of the issues arising from this report please call Sarah Young on 01484 558838 or take a look at our website: <http://ridleyhall.co.uk/our-services/contentious-probate-inheritance-disputes/missing-people/>



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