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The death of an employee is a difficult time for the family and the employer will often wish to be as helpful as possible by making payments of wages and other amounts due without delay. Doing this though, could mean that the employer makes the payments to the wrong person.

The points below set out what the employer should consider and documents they should ask to see before making any payments, in order to avoid later claims from the rightful heirs.

Is there a valid will?

If the employee made a will which was still valid at the date of death, it will usually state who is entitled to deal with and hold the assets in the estate. These are called the executors. Their role is to realise the assets in the estate, pay the liabilities and distribute the balance to the beneficiaries named in the will. The executors and beneficiaries can be the same people but this depends on what the will states. Executors are authorised to act by the will from the date of the death, but the Grant of Probate is confirmation that the court has found the will to be valid. Usually the Grant of Probate will not be issued for a couple of months after the death and the delay can be difficult for the family.

If the employer is to be sure that they are paying funds due to the estate to the right people they should wait to see the Grant of Probate and only pay funds to the people named as executors.

What if there isn't a will?

If the employee did not make a valid will the estate passes under the intestacy rules. These rules give a set order of priority starting with any surviving spouse or registered civil partner, followed by children and then remoter relatives. If the employee was married or in a registered civil partnership when they died intestate, the survivor will be one of the people entitled in priority to administer the estate.

A surviving spouse or registered civil partner will, as long as the estate is solvent, be entitled in priority to the first tranche of the estate as well as to the role of administrator.

Co-habitees have no rights to an estate unless they are named as an executor or beneficiary in a will. They may be potential beneficiaries of death in service benefit trusts or pension schemes however.

If there is no surviving spouse or registered civil partner or any doubt as to whether the employee was married or in a registered civil partnership or had a will, the employer should wait until they are presented with a court sealed copy of a Grant of Letters of Administration and only make payments to the administrators named on it.

Article Source:

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There are various types of payments that can be made but it is advised that you should speak directly with an [A HREFhttp://www.osborneclarke.com/](http://www.osborneclarke.com/) international law firm, [/A](#) so you can obtain the correct legal advice.

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