

DWP Claims on Estates: What are they and why have I received one?

When someone who received means-tested benefits dies, the Department for Work and Pensions (DWP) might ask for information about their estate. This is to make sure that any benefits paid out to that person during their lifetime were correctly assessed. In some cases, it could mean that money must be paid back to the DWP from the estate.

This help guide explains the investigation process used when the DWP wish to assess someone's benefits in this way. If you are a Personal Representative (i.e. an Executor or an Administrator) of the deceased person's estate, it is important to be aware of this process and to fully assist the DWP with their investigation.

How do the DWP become involved?

If you are dealing with the estate of someone who received benefits during their lifetime, there is no need for you to inform the DWP yourself.

The Probate Registry will inform the DWP that the person has died when a Grant of Representation is obtained. The Grant of Representation is an important step in the administration of an estate.

What should I do if the DWP request information?

The DWP has the legal authority to request a list of assets and liabilities which belonged to the deceased person at the time of their death.

This legal authority comes from section 126 of the Social Security Administration Act 1992.

It is important to provide this information to them as accurately as possible. You should tell the DWP whether the person who died was in a nursing or residential care home, and when this became a permanent arrangement. This can make a significant difference to the benefits claimed.

You should treat any request by the DWP for information as a claim against the estate. In other words, you should be prepared for the possibility that the estate may have to pay out an additional, unforeseen amount of money.

We strongly advise against distributing any of the property or money in the estate to the beneficiaries until the DWP have concluded their investigation. If the estate has already

been distributed, and the DWP declare that an amount must be repaid to them, you may be held personally responsible for this sum.

What will the DWP do next?

When you have responded to the DWP's request, they will compare your information with the information provided during the period when the benefits were paid. If these support each other, they will take no more action and confirm this by letter. If the details are different however – such as if the person had more money in the bank than the DWP were originally made aware of – then they may make further enquiries.

As part of these enquiries, the DWP may request documents from the office which paid the benefits to the deceased person. They will then write to you again once they have received these documents.

If the DWP need more information from you at this point, they will ask for specific things, such as bank statements and passbooks, together with information about particular assets in the estate, such as shares.

Usually, they will ask you for this information to cover a specific period of time before the person died.

All of the information the DWP gather is used to work out whether there has been an overpayment of benefits and, if so, by how much.

Sending further information to the DWP

Collecting and sending all the further information to the DWP can be time-consuming and tricky. The following tips may be of help:

- Banks and building societies should be able to provide you with statements and balances for all accounts needed, whether those accounts are open or closed.
- The law says that banks and building societies must hold records for the previous six years, and most hold them for ten years. This should allow you to obtain historic bank records. However, if a bank says they are unable to give balances for the dates you need, often the only alternative is to provide the DWP with the earliest balances you can.
- You may need to provide details for additional accounts. For example:
 - If there were any accounts opened after the period the DWP wish to investigate, you will need to provide opening statements for the earliest dates available.

- If there have been any transfers to or from accounts which are not included in the estate, you will need to tell the DWP about these too.
- Do not send original documents, such as passbooks or share certificates. The DWP will accept photocopies and always state that they will not be held responsible for lost documents.

The DWP will give you a time limit in which you must reply. If you cannot get the information to the DWP within this time, you will need to contact them and give them a timescale in which you can provide this information.

Make sure you have told the DWP about all of the assets in the estate. This will help to avoid unnecessary delays to the process. Even so, the DWP may still need to request more information from you later on, depending on the circumstances.

What happens at the end of the investigation?

Once the DWP have all the information they need, and have completed their assessment, they will let you know the outcome of their investigation.

If the DWP consider that the deceased person was paid too much in benefits during their lifetime, then the DWP are entitled to reclaim this from the estate.

The DWP will tell you how much has been overpaid, how this has been calculated, and how to repay the money to them. You must pay this money back to the DWP from the estate before the final distribution of property and money is made to beneficiaries.

If money must be repaid to the DWP and the estate has already been distributed, you may be able to recover the funds from the beneficiaries. However, the Personal Representatives are ultimately responsible for the repayment. This means you will be personally liable for the repayment if it cannot be made from estate assets.

Alternatively, if the DWP consider that the deceased person was paid the correct amount of benefit during their lifetime, they will confirm this to you by letter and no further action will be necessary. The estate can be distributed to beneficiaries.

How long does a DWP claim take to complete?

Estate enquiries by the DWP can take anywhere from a few weeks to several months to resolve. This will depend on a number of circumstances, such as the composition and complexity of the estate, and the extent of information requested by the DWP.

The process is also dependent on the time taken to get information from third parties, such as banks and building societies.

How Roche Legal can help

Dealing with legal issues can be confusing and stressful. We understand this, and we're always on hand to untangle jargon and offer support.

If you need advice on any of the issues raised in this help guide, please don't hesitate to [get in touch](#). Roche Legal is an award-winning legal practice, offering practical and caring advice.

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