

When can a missing person be presumed dead - the seven year rule?

Many people are familiar with a so-called 'seven year rule' when dealing with a missing person's affairs. Whilst this time period has significance, there are cases in which a person's affairs may be resolved much sooner – or indeed later – than seven years.

What is the significance of seven years?

Law on marriage and civil partnership states that the fact that a person has been missing for seven or more years (and there is no reason to believe that person is alive) is evidence that the person is dead. In these circumstances the court would be likely to make a presumption of death and dissolution order (unless there was other evidence that the person may be alive). This order cannot be used, however, to administer the missing person's estate, or for other purposes.

Seven years is also relevant in applying to administer a missing person's estate via a grant of probate. For up to seven years after a person has last been seen, the court presumes that the person is still alive. After seven years, a court *may* allow a missing person's affairs to be dealt with, provided that: there are persons who would be likely to have heard of the missing person during that period; those persons have not heard of the missing person; and reasonable attempts have been made to find the missing person. If, however, there have been indications that the person was alive within those seven years, the passing of time, in itself, will not be enough for the court to assume that the missing person is dead.

When is seven years not applicable?

There are exceptions to this seven year time period. Relatives of people who disappear in circumstances which present an immediate threat to their life may apply to a court to administer their affairs much sooner than seven years. This may be appropriate, for example, if a person goes missing at sea or if there is other evidence to indicate the person has died, such as through suicide, or in a large-scale disaster or terrorist attack.

Is a missing person automatically declared as presumed dead?

No, there is no automatic declaration. The family or other interested party must apply to the court for a specific purpose e.g. to deal with the missing person's estate. The court will grant permission to deal with the estate if it is satisfied by the information provided to it – this will include what efforts have been made to find the missing person, and may include evidence from the police and other searching organisations.

However, a grant of probate does not amount to a declaration of presumed death, and is not conclusive in any other legal proceedings that may be needed, e.g. dissolving a marriage.

Where can I get more information?

Missing People recognises that dealing with a missing relative's financial affairs can be both daunting and upsetting. The team is available around the clock if you would like to talk about how you are feeling throughout this process. You can reach them by calling or texting 116 000, or by emailing 116000@missingpeople.org.uk.

This document has been made with the kind assistance of Clifford Chance LLP and is endorsed by the UK Missing Persons Bureau.



Missing People would like to thank The Big Lottery Fund and Tracesmart for supporting the work of the charity.



First Published: December 2011. Updated: May 2012

For further information and guidance on the issues addressed in this guidance sheet, or for support relating to any aspect of someone going missing, call Missing People's free and confidential 24 hour helpline on **116 000** or email 116000@missingpeople.org.uk

Whilst this information has been provided in good faith, it should not be taken as legal advice. For information tailored to your circumstances, please contact your police force, solicitor or an advisory organisation as appropriate to your query.

Please let us know whether this guidance has been useful, either by answering a few short questions at <https://www.surveymonkey.com/s/MissingPeopleGuidance> or by emailing your comments to policyandresearch@missingpeople.org.uk