

SPANISH LIFETIME MORTGAGE
HELP AND GUIDANCE
FOLLOWING BEREAVEMENT

WE ARE HERE TO HELP

We understand that coping with the death of a loved one isn't easy and when you are faced with managing their financial matters everything can seem so much harder.

We would like to help, and this leaflet has been designed to provide you with some guidance.

If there is anything you are not sure about or need help with contact us on 0161 923 8030 or if calling from abroad +44 161 923 8030. Our offices are open Monday to Friday, 8:30am to 5:00pm.

Alternatively you can contact us by email: mcs@themanchester.co.uk.

WHAT YOU NEED TO DO INITIALLY

The first document that we will need you to send us is an original copy of the death certificate. We can also accept copies which have been certified by a solicitor. If the death occurred overseas it is helpful to obtain an International Death Certificate, and the Funeral Director should be able to provide you with a copy.

If you have a copy of the Spanish Will and the Certificate of Last Wills, it would be useful if you are able to provide the Society with a copy so we can confirm who are the executors or beneficiaries of the estate. If you are the executor and/or the beneficiary this means we would be able to share information with you regarding the mortgage account. If you are unable to find a Will, a search can be made of the Central Wills Registry in Madrid (more information on this is in the section titled "The Spanish Inheritance Procedure").

QUESTIONS ABOUT THE LIFETIME MORTGAGE IN THE EVENT OF A DEATH

What is a Lifetime Mortgage?

Unlike conventional mortgages, there are no monthly mortgage payments to make on our Lifetime Mortgages. The interest is charged each month and added to the balance outstanding.

The mortgage becomes repayable through the sale of the Spanish property or the repayment of the mortgage when the last surviving borrower passes away or goes into long term care.

What happens to the Lifetime Mortgage on death of a sole borrower?

If you are notifying us about the death of the only person named on the mortgage (including the remaining person on the mortgage if the mortgage was originally in joint names) it is important to understand that the Lifetime Mortgage will become repayable within 12 months. If you think this might be difficult to achieve, please contact us; we may be able to agree a solution for repayment or assist you in other ways.

What happens to the Lifetime Mortgage on death of a joint borrower?

If one person dies on a joint mortgage the lifetime mortgage will continue to run until the remaining borrower dies, moves into long term care or permanently vacates the property. We will need to be contacted so that we can update our records, but the surviving borrower will maintain ownership of the home, and the lifetime mortgage will continue as before. In this instance the inheritance of the person who has died must be completed to transfer the property into the sole name of the remaining borrower.

How long will the Estate and beneficiaries have to pay back the lifetime mortgage?

We ask that we receive the outstanding balance amount within one year of the date of death. However, we know this can be a difficult time so we may be flexible if the property is being actively marketed for sale. We will assist provided we are kept regularly updated as to the progress of the sale.

Does the money used to repay the Lifetime Mortgage have to come from the sale of the property?

No. If the mortgage can be repaid from an alternative source the property does not have to be sold. We will just need to know how you are to repay the mortgage.

QUESTIONS ABOUT THE LIFETIME MORTGAGE IN THE EVENT OF A DEATH (CONTINUED)

What happens to the property?

The personal representatives or beneficiaries of the estate need to decide if they wish to complete the inheritance and if so, they become responsible for the property and, if necessary, arranging the sale. They also need to make sure that the property remains insured and secure.

If the personal representative or beneficiaries of the estate do not wish to complete the inheritance we would ask that they speak to the Society so we can understand their circumstances and see if we can offer any further assistance.

What happens if the mortgage balance is higher than the value of the property?

In the event that the property is worth less than the settlement value of the outstanding mortgage and accrued interest, the Society guarantees, through its 'No Negative Equity Guarantee' clause, that the beneficiaries will not be expected to make up the difference upon sale of the property.

Will interest continue to be charged on the outstanding amount?

Yes. We will continue to charge interest until the mortgage is settled.

THE SPANISH INHERITANCE PROCEDURE

Establishing if there is a Spanish Will

The first thing to do is to see if you can find a copy of the Spanish Will. If you are unable to find a Will, a search can be made of the Central Wills Registry in Madrid who would be able to provide details of a Notary who holds the valid Will. More information can be found on their website www.mjusticia.gob.es.

At this stage you may prefer to appoint a Spanish lawyer – Abogado – to assist you.

The UK Government website has lists of English-speaking lawyers in each area of Spain. See www.gov.uk/government/publications/spain-list-of-lawyers.

There are also a number of firms within the UK that are able to provide advice on Spanish property law. Details of firms can be found on the Law Society website – www.lawsociety.org.uk. If you need assistance finding a suitable Solicitor please speak to us.

The Death Certificate has to be sent to the Central Wills Registry who will issue a Certificate of Last Wills. If the death occurred in the UK you will need a Death Certificate carrying the Apostille (meaning it is legalised by the Foreign Office). A local Notary will be able to help you with this.

An application can be made to the Notary where the Will was signed for a certified copy of the Will. You will also need Certificates from any banks showing the balance at date of death. An inventory of the Spanish assets then needs to be prepared, an Inheritance tax return completed – even if there is no inheritance tax to pay – and then the property and any assets such as bank accounts can be transferred.

If there is no Spanish Will

If there is no Spanish Will you will need to obtain a Grant of Probate from the UK which will need to be translated and carry the Apostille (legalisation). You will require the Certificate of Last Wills from Madrid together with Deeds of the property and bank certificates with balance at date of death.

If there is no Spanish Will or UK Will

When a person dies without a Will this means that the estate is “intestate”. This means that the assets pass according to a fixed set of rules.

In the event that a British national who owns assets in Spain dies without a Will matters can become rather complicated and you may wish to take legal advice.

FINANCIAL CONSIDERATIONS AFFECTING BENEFICIARIES

Is the declared heir or beneficiary of a Will immediately entitled to the Spanish assets?

Although the assets do pass on death the administration of the Inheritance has to be completed in a Deed of Acceptance of Inheritance or Deed of Declaration of Heirs. Before notifying any banks it is important to get advice as this may result in the accounts being frozen.

Spanish Will and a UK Will?

Under the terms of the Lifetime Mortgage, the Society requested that a Spanish Will was put in place for each party to the mortgage. If the deceased had both a Spanish and a UK Will it is important to confirm that the UK Will does not revoke the terms of the Spanish Will.

What levels of inheritance tax are payable?

Spanish inheritance tax - known as 'succession tax'- is managed by both the government and central authorities. This means that rules and tax free allowance can vary slightly by region.

Tax would be payable on the basis of the sum inherited; this would typically be the difference between the mortgage balance and the property value plus any other assets such as funds held in bank accounts. A Solicitor would be able to advise you of the level of tax that would be payable.

When is Inheritance tax payable in Spain?

Payment of inheritance tax in Spain needs to take place within six months, after this you can apply for a further extension but late payment fines can be incurred. It is important to deal with this as fines can rise to more than 20% of the amount owed and the tax authorities can embargo and sell property.

Can the asset in Spain be sold to pay for inheritance tax liabilities?

In Spain the beneficiaries have to show that they have completed a tax return and paid any tax before the property can be transferred to them. It may be possible to pay the taxes from the price of sale if the beneficiaries can find a buyer within the six months. A lawyer or accountant can calculate if any Inheritance tax will be payable.

How long does it take to complete the Inheritance?

The process typically takes between 3-12 months, however the timescales can vary dependent of the complexity of the inheritance and if a copy of the Will is easily assessable. A Solicitor should be able to advise you of the relevant steps to complete the inheritance and the likely timescales.



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