



PROBATE: A GUIDE FOR PERSONAL REPRESENTATIVES



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“At this sad time there are many things to think about and it can be difficult to know where to start”

Introduction

We have put together some information which we hope may be of assistance to you. We have included some pointers which may help in the early stages and also jotted down some thoughts for your further consideration in due course.

We provide a quote beating personal service provided at times to suit you, in the comfort of your own home if help is needed. Our legal partners are SRA '*Solicitors Regulation Authority*' registered and Lexcel Practice Management Standard Law Society Accredited.

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Register the Death

At the time of registering the death it is practical to obtain a number of certified copies of the death certificate roughly equivalent to the number of assets held by the person who has died.

However, where the estate is complicated and there are a large number of assets it may be impractical and unnecessary to obtain the same amount of copies as there are assets.



Who can register the death?

You can register the death if you're:

- *A relative*
- *Someone present at the death*
- *An administrator from the hospital*
- *The person making arrangements with the funeral directors*

Funeral Arrangements

If the person who has died left a will it may contain directions about funeral wishes.

Therefore, following the death, one of the first tasks is to locate the will (if there is one) and to check for any such directions.

They may be simple as “I wish to be cremated” or they may be more detailed perhaps specifying a church, cemetery or crematorium and ideas or directions for the service.

If the deceased did not leave a will, responsibility for choosing and arranging a funeral usually rests with close relatives.



What to do if there is **A WILL**

If the person who has died has left a will, it will usually name one or more persons to act as the executors of the will to administer the estate. If you are named as an executor of a will you may need to apply for a grant of probate.

A grant of probate is an official document which the executors may need to administer the estate. It is issued by the probate registry.

What to do if there is **NO WILL**

If the person who has died did not leave a will (known as dying intestate) the process is more complicated. The Administration of Estates Act 1925 sets out who has the legal right to deal with the affairs of the person who has died. This person is known as the Administrator of the estate, usually this will be a close relative.

However, there may be more than one person who has an equal right to do this. Anyone who has this right can apply to the probate registry for a grant of **Letters of Administration**. This is an official document issued by the probate registry which allows the Administrator to administer the estate.

Administration of the Estate:

WHAT THIS MEANS AND WHAT IS INVOLVED

Normally, when someone dies the Administrator will require a Grant of Representation (see Glossary on page 11) to deal with the assets of the estate. However, a Grant of Representation is not always needed, for example, if the deceased:

Has left less than £5000.00 in total; or
Owned everything jointly with another

Sometimes financial institutions may agree to pay funds to a personal representative without a grant of representation depending on the values involved. Each institution has a different discretionary threshold; it is always worth asking what this is

Usually a grant of representation will be needed when the person who has died left:

More than £5000.00;
Stocks & shares;
A house or land; or
Certain insurance policies

Is a Grant of Representation needed?

HOW TO OBTAIN A GRANT OF REPRESENTATION

The personal representative can choose to administer the estate themselves without help from a Solicitor. The personal representative can apply in person to the district probate registry. You will need to attend an interview at the probate registry and fill in the appropriate tax and application forms.

Alternatively, a personal representative may decide to obtain assistance from a Solicitor who can deal with the day to day administration and guide the personal representative through their duties and responsibilities.

RESPONSIBILITIES

OF PERSONAL REPRESENTATIVES

The task of being a personal representative can be onerous and imposes personal responsibilities, for example:

- Personal representatives are responsible for making sure that the estate is administered correctly. If there is a will the personal representatives must make sure that the wishes of the deceased, as set out in their will are followed. If there is no will, the Personal Representatives must follow the rules of intestacy set out in the Administration of Estates Act 1925)
- Obtain valuations of all estate assets owned including properties.
- Settle all debts and outstanding bills.
- Personal representatives are also responsible for finding out if Inheritance Tax is due. If it is, the personal representative must calculate this and arrange payment of any Inheritance Tax due.
- Register any Income Tax due, submit relevant forms to HMRC and make full settlement.
- Prepare and submit estate accounts.
- The estate cannot be dealt with until all claims to it have been received. Many personal representatives are unaware that 'disappointed' individuals have six months from the date when the grant was issued to make a claim against the estate, action before this period has elapsed has to be considered carefully.
- Unless the personal representative is absolutely sure he knows all details of the estate, it is always a good idea for personal representatives to issue a notice in the London Gazette and local press which gives creditors a deadline to come forward before distributing the estate.

Even a relatively straightforward estate can take time to deal with. It is therefore important that the expectations of the personal representatives



Renunciation of an Executorship

If you find you are appointed as an executor and are unwilling to act you can renounce your role as executor allowing the remaining executors to act. It is important to consider if you wish to renounce before starting to deal with the estate in any way. You may wish to seek professional advice if you are considering renouncing your role as executor.

Property Insurance Considerations

- It is important that if the person who has died owns a property that the buildings insurance continues. The insurers will need to be advised of the death as soon as possible. Also check that this premium is paid in full or payments are made by monthly direct debit. When the banks are notified of the death often all direct debits are cancelled.
- Often contents insurance will be null and void due to unoccupied nature of the premises after 30 days.

Personal representatives may wish to seek alternative cover or failing this, may wish to remove some items of value for safekeeping.

Motor Vehicles

- The deceased's car may need urgent attention for example if the road tax and / or insurance is due.

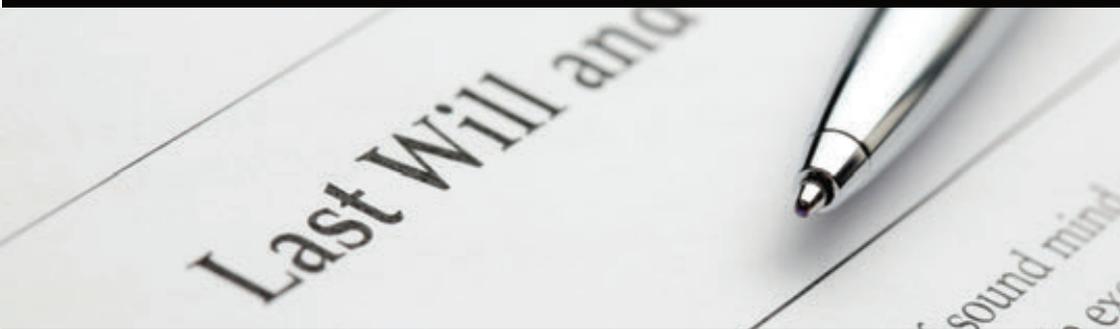
Banking - Direct Debits

- Check to see what is paid by direct debit. For example, it is important that a mortgage lender is aware of the death.

Do you have a dispute with a Will?

The death of a partner, parent, friend or other loved one is always upsetting, and can be stressful. Especially if their Will is challenged or if there is a dispute relating to their Estate. We can help you with timely and sympathetic advice to ensure you have the right answers and solutions for you.

Our trusted partners, SRA registered, Lexel Law Society accredited Solicitors have a specialist Contentious Probate Team that deals with all forms of disputes relating to Wills, Estates, Trusts and also Court of Protection issues.



They have substantial experience in handling Contentious Probate matters and examples of the cases they deal with include:

- Where inadequate provision has been made in a Will
- Claims regarding the validity of a Will
- Disputes relating to the interpretation of the terms of a Will
- Claims regarding agreements made with the deceased before death, particularly with regards to the disposal of the Estate
- Disputes over the identification of beneficiaries.
- Claims for and against Executors, Personal Representatives and Trustees, particularly where there is alleged breach of Trust, or in order to remove or substitute parties.
- Disputes relating to Trusts and Charity.
- Claims for the rectification of Wills and Trusts

Summary

We hope that you have found this guide useful. It is designed to provide help at a difficult time and is not intended to worry or confuse you. However, if you do require some assistance, please find some information below about how we like to be transparent in how we charge fees



Fees

- At Assured & Legal along with our legal partners the values of openness and honesty are core to the way in which we provide our service, offering transparent fixed fees and clear communication during the estate administration. We are confident that we provide value for money with our fixed fee pricing with our legal partners.
- We understand that the last thing people want at such a distressing and emotional time is the added worry of large legal bills or unexpected fees associated with the cost of Probate and Estate Administration. This is where we can help.
- Fixed fees - We provide transparent fixed fee quotations which is agreed with you before any work commences. There are no hidden charges and no additional fees for correspondence or telephone calls. Fees are taken from the estate provided there are sufficient cash assets available, so you do not need to worry about covering the cost of the service.
- We aim to offer the best value at all times and do not believe that we will be beaten on price for any comparable service.

“I was very concerned it would be difficult but I have been guided at every step, I replaced the executor who did not wish to carry out his duties and I have been able to depend on Assured & Legal and their solicitors at every step”

Mrs B Lewis

“They have been so helpful to us, mum passed after Christmas and the sensitivity shown was very good but coming to see us at our convenience, twice in the evening was just perfect”

Mr M Carlisle

“The representative who visited our home was extremely professional and talked to us in a way we could understand ”

Mr & Mrs K Summerfield



Glossary

- **Personal Representatives** - refers to executors and also administrators of an estate.
- **Grant of Representation** - refers to grant of probate (when there is a will) and grant of letters of administration (when there is not a will) often people just refer to a grant.
- **Intestacy** - the estate of a person who died without having made a valid will.
- **Probate** - the legal process of administering the estate of a deceased person by resolving all claims and distributing the deceased person's property under the valid will.
- **Letters of Administration** - granted by a court or probate registry to appoint appropriate people to deal with a deceased person's estate where property will pass under Intestacy Rules or where there are no executors living (and willing and able to act) having been validly appointed under the deceased's will.
- **Trustee** - can refer to any person who hold property, authority, or a position of trust or responsibility for the benefits of another.
- **Administrator** - a person appointed by a court to handle the administration of an estate for someone who has.



CHALLENGES WITH PROBATE?

ARE YOU IN NEED OF ADVICE?

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