
Towns Needham
SOLICITORS

Administration of Estates

Administration of the Estate

This means dealing with the deceased's assets, including the sale of any property, settling any debts and liabilities and then accounting to the persons entitled to receive the estate.

If there is a will

The Executor(s) named in the will is the person who has the authority and responsibility for carrying out the administration.

It is commonly thought that there is a formal reading of the will in front of the family and beneficiaries whereas, in practice, this very rarely happens. Usually the Executor or the solicitor acting for them will write to the beneficiaries advising them of their entitlement.

There is also a mistaken belief by many people that Probate is not required if there is a will and is only needed when there is no will or there is a problem, but this is not the case. Unless an estate is very small a Grant of Probate of the will is needed.

Before applying for the Grant of Probate the Executor must make enquiries and obtain values of the assets of the deceased as at the date of death and also of the amount of any debts and liabilities.

The Executor will also be responsible for arranging and making payment of any Inheritance Tax due on the estate. There are some exemptions from tax, the most common being estates which pass to a spouse or to charity. It may also be that some part of the estate is subject to tax and some is exempt. If Inheritance Tax is payable it must be paid before an application can be made for the Grant of Probate.

Once the full extent of the assets, debts and liabilities are known and Inheritance Tax where applicable paid, an application is made to the Probate Registry for the issue of a Grant of Probate. This is a court document confirming the death and full details

of the Executor(s) and which, when produced to the relevant organisations and authorities, enables the assets in the estate to be dealt with and collected in.

Once all assets have been collected in and all debts, liabilities and any tax has been paid, the Executor then distributes the estate amongst the beneficiaries named in the will.

If there is no will

This is known as intestacy.

The Administration of Estates Act 1925 sets out the persons entitled to benefit from the estate and there is a strict order to be followed.

Once it has been determined which persons are entitled to benefit from the estate one, or sometimes more, of them will need to apply to Probate Registry for a Grant of Letters of Administration (the equivalent of a Grant of Probate in cases where a will has been left).

A person taking out a Grant of Letters of Administration is known as an Administrator and has the same powers and responsibilities as an Executor appointed under a will. He or she has to take the same steps as an Executor as set out earlier both before applying for the Grant of Letters of Administration and also once the Grant has been obtained. The generic term for both Executor and Administrator is 'Personal Representative'.

On any estate, whether or not there is a will, it is advisable to place advertisements for creditors in the London Gazette and a local newspaper. This is particularly important on estates where a Personal Representative may not be familiar with the deceased's financial affairs. There may be debts which are not immediately known and, without the adverts, the Personal Representative may put themselves at risk of personal liability.

Where we can help

If you are a Personal Representative we can help you through this whole process. We can provide a complete service from initial advice through to final settlement of the estate with beneficiaries or we can just assist you in some of the more complex areas.

You can call us on 0161 832 3721 to have a free discussion about the estate and your requirements and we can give you an indication of the likely costs involved.

We set out here an indication of the steps we would take if instructed to deal with administration of an estate from beginning to end:

Steps

1. We advise you on the terms of the will and how they should be applied. If there is no will, we can advise you as to how the estate will be divided according to the Administration of Estates Act 1925 and who is entitled to apply for Grant of Letters of Administration. We can also advise you on tracing any missing beneficiaries.
2. We contact the various organisations to notify them of the death and to find out the balances or values of any accounts or investments.
3. We can help you to arrange valuations of other assets such as a house, contents, jewellery and shares.
4. We can make arrangements for the funeral expenses to be paid from one of the deceased's bank or building society accounts to the Funeral Directors where there are sufficient funds in the account.
5. We will establish details of liabilities payable out of the estate and do statutory advertisements for creditors, if these are needed

6. We will fill in, on your behalf, the Inheritance Tax form, if this is necessary and give advice concerning the raising or obtaining release of funds to pay the Inheritance Tax due.

7. We will complete the application for the Grant of Probate/ Letters of Administration and also the Inland Revenue Return of Information form, which is required in all non Inheritance Tax cases.

8. When the Grant is issued, we will register it with the organisations and obtain forms for you to sign to claim the funds due which can be collected in our Clients Account or a separate Personal Representatives Account or arrange for you to sign forms to transfer the assets into the name of a beneficiary, if this is required.

9. We can deal with the sale of any shares, house and contents. The sale of a house would be charged for separately.

10. From the funds collected in, we will pay the debts and liabilities due and discharge and expenses incurred during the administration of the estate.

11. We will deal with the payment of any legacies of money left in the will.

12. We can complete or obtain appropriate professional assistance in completing any income tax forms or other forms necessary to bring the deceased's tax affairs up to date.

13. We will prepare accounts for approval by the Executor and beneficiaries and then pay the beneficiaries their entitlement.

Inheritance Tax Planning

Sometimes, when a person dies and opportunity to reduce or even remove the liability to pay Inheritance Tax is missed, either because the person did not make a will or he or she did, but failed to do any tax planning as part of that document.

It is sometimes possible to do a Deed of Variation between the Personal Representatives and the beneficiaries to make use of the opportunity. This can be done whether or not there is a will but all beneficiaries must be 18 with full mental capacity and the Deed must be done within two years of death. Also, the arrangement has to meet Inland Revenue requirements. This is a complicated area of the law and we are able to provide advice and assistance in the this area and can discuss this in more detail in appropriate cases.

Do you have a will?

The importance of making a will cannot be over emphasised no matter how large or small your estate is. The aim of our wills, probate and trusts team is to help ensure a smooth transfer of wealth from one generation to the next.

It is always advisable to have a properly drawn up will and when someone receives an inheritance this is a particularly relevant time to consider doing this together with some tax planning for the future. We can help you in both these areas.

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