



Estate Administration

When someone close to you dies you will naturally be very distressed and it can be difficult to think clearly. However, if you are going to be responsible for handling the deceased's affairs there will be a great deal to do in the first few days after the death and over the months ahead. A solicitor can assist you by taking over some of these responsibilities; guiding you calmly and sympathetically through the process, sorting out the formal administration of the deceased's estate (ie all their assets and liabilities), distributing the estate in accordance with any Will or the legal rules which apply if the deceased did not make a Will, and handling any complications that arise.

This Guide provides a general outline of what generally needs to be done when someone close to you dies. It is not comprehensive as the circumstances of the deceased, and their death, will differ in each case. Your solicitor will advise you in more detail once you are able to provide more information about the deceased and his/her affairs.

What should I do when someone dies?

When someone dies the immediate priorities will be:

- If the deceased lived alone you must secure the deceased's home and belongings.
- Collect together the deceased's papers.
- Register the death at the local Registry Office - details about registering the death will be provided once the doctor has certified the cause of death.
- Contact funeral directors to make funeral arrangements - you should also check to see if the deceased had any specific funeral wishes. This may be in the form of wishes expressed to friends and family, contained in a letter stored with the deceased's papers, or even contained in the deceased's Will, if they had one.

If you are instructing a solicitor to deal with the administration of the estate you should then pass the death certificate and all the deceased's papers to the solicitor. This will enable your solicitor to make an initial assessment of the extent and value of the estate and identify the relevant organisations which must be notified of the death. At this stage the solicitor will:

- Notify any insurance companies (eg in respect of the house and any car, and any life policies etc).
- Notify banks, building societies, pension companies, utilities and government departments, so that payments to and from the deceased are stopped as soon as possible after death. Although banks will stop any payments entering or leaving the deceased's accounts, they will normally pay funeral costs from the deceased's account, on production of an invoice from the funeral director.

Did the deceased leave a Will?

You should check the deceased's papers to see if there is any evidence of a Will. If there is a Will, it will confirm who is appointed to act in the administration of the estate (the "Executors").

If you find that a Will is stored with a solicitor, the only information they will be able to give you over the phone is who the executors are and the deceased's funeral wishes. The solicitors will only be able to discuss matters with the executors in detail or release the Will once they have seen an original death certificate and identification details for the Executors.

If there is no Will, the deceased's estate must be administered in accordance with the Intestacy Rules. These are legal rules, set out in an Act of Parliament, which prescribe who can administer an estate in the absence of a Will, who is entitled to share in the estate and in what proportion. If you cannot find a Will, we will need to investigate the deceased's family circumstances to advise who will be entitled to administer the deceased's estate (the "Administrators"). This will normally be the deceased's closest living relative(s).

What happens next?

Executors or Administrators (also called Personal Representatives) are responsible for administering the deceased's estate. They must collect any assets, pay off any debts and taxes and distribute the estate in accordance with the Will or the Intestacy Rules. Details of the process are set out below. This can be a difficult task and Personal Representatives can obtain professional advice and assistance if they wish. If a solicitor is instructed the solicitor will undertake these tasks on behalf of the Personal Representatives.

Usually all the debts and the costs and expenses of administering the estate are paid from the deceased's assets before any money is paid to the persons entitled to share in the deceased's estate (the "Beneficiaries"). If the deceased's assets are not sufficient to pay all the liabilities and expenses in full the Personal Representatives must deal with the administration very carefully to avoid taking on personal responsibility for the deceased's debts and having to pay for things themselves. It may not always be clear at the outset whether the estate will be sufficient to cover all the debts and expenses and in such cases legal advice is essential.

The Process

When you instruct us to assist in the administration of the deceased's estate, we will take the following steps on your behalf:

- Meet with you to discuss what you need to do and to obtain basic details of the deceased's assets and liabilities. We will also ask you to complete a questionnaire so you can let us know of any assets, liabilities or other details which you may have overlooked or might not have known about at the time of the meeting. You should also let us know if you find details of any assets or liabilities after our initial meeting and after completing and returning the questionnaire. It may be necessary to make specific arrangements for the security of personal assets, jewellery etc which are the subject of an express legacies in the deceased's Will.
- Obtain full and up to date details of the deceased's assets. This will involve writing to all banks, building societies, share registrars and other third parties who hold details about the deceased's assets. If the deceased owned a property, we will also obtain a document from the Land Registry to confirm how the property was owned. Any property and personal assets (such as house contents, jewellery, cars etc) will have to be valued for the purposes of the Inheritance Tax account and possible disposal.
- Obtain details of the deceased's liabilities. This will involve writing to credit card providers, mortgage companies, HM Revenue & Customs, utility companies and any other people to whom the deceased may have owed money.
- Prepare an Inheritance Tax (IHT) account for the estate. HM Revenue & Customs require an IHT account even if no tax is actually payable. We will arrange for the Personal Representatives to sign the IHT account before sending it to HMRC or the Probate Registry. If there is IHT to pay on the estate, we will arrange for this to be paid from the deceased's assets within the appropriate timescale.
- Prepare an Oath for the Personal Representatives to swear. This is a document which must be sent to the Probate Registry in order to obtain a Grant of Representation (Grant). The Grant is a legal document which gives the Personal Representatives the formal power to sell assets, close bank accounts and generally administer the estate. The two most common types of Grant are a Grant of Probate, where there is a Will, and a Grant of Letters of Administration, where there is no Will.
- Submit an application to the Probate Registry to extract a Grant in the estate.
- On receipt of the Grant, collect in the estate's assets and discharge any liabilities from those assets. At this point it will be possible to dispose of any assets that are not being passed directly to any beneficiary.
- Advise you in relation to the risk of any claims against the estate or against the validity of the Will and relevant timescales for retaining funds before distributing assets to beneficiaries. In some cases it can be necessary to wait for over a year before making any payments from the estate.
- If agreed with you, we will place Statutory Advertisements. These are notices placed in the London Gazette and a local newspaper to advertise for creditors of the estate (ie other persons to whom the deceased owed money of which you may be unaware). If no new creditors come forward within 2 months of placing the advertisements, the Personal Representatives may assume that there are none. The Personal Representatives can then safely distribute assets after paying any debts of which they are aware. If any additional creditors bring claims after the 2 month period then they will only be able to pursue the beneficiaries of the estate for payment of the debt, not the Personal Representatives.

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- Make distributions to all beneficiaries in accordance with the terms of the deceased's Will or the Intestacy Rules. To protect the Personal Representatives we will carry out a search before we make any distribution to ensure that the beneficiary is not bankrupt. In the unlikely event that a beneficiary is bankrupt we will arrange payment of their entitlement to their trustee in bankruptcy. Depending on the value and assets in the estate we may make one or more interim distributions out of the estate as the administration proceeds.
 - Finalise the deceased's income tax affairs and arrange payment of any income tax due in relation to the estate administration.
 - Prepare final estate accounts. These are accounts which show what assets and liabilities the deceased had at the date of death, any changes including administration costs and interest paid to the estate and the distributions stipulated by the Will or Intestacy Rules. We will ask the Personal Representatives to sign a set of estate accounts before we make final distributions to the beneficiaries.

Trusts and Gifts of Property

Where there are beneficiaries under the age of 18 years or a specific trust required under the terms of the Will it will be necessary to set up the relevant trust. This process can be complex and is dealt with in a separate FDR Client Guide – please ask your solicitor for a copy if it has not already been supplied to you.

In some cases the Will may contain a specific gift of a property to a named beneficiary or a beneficiary may opt to take the deceased's house as part of his/her share of the estate. If so it will be necessary to arrange for the property to be formally transferred to the relevant beneficiary and the change of ownership registered at the Land Registry.

This Guide is not intended to be comprehensive. It highlights and explains the common legal issues relevant to this topic. It should also help you to understand any steps we take on your behalf and the terms we and other professionals involved in your matter may use. Please read this Guide carefully and contact the lawyer dealing with your matter if you do not understand anything in it. We will not repeat the advice or information provided in this Guide when we meet you or write to you unless we need your specific instructions on some aspect of it.