



# Guide to the administration of an estate

If someone has died you may need help with administering their estate. You might be the executor of their Will or they may have died without leaving a Will (died intestate). You may wish to take full responsibility for getting the grant of probate and dealing with the legal, tax, property and estate administration affairs or you may wish to appoint a solicitor to act on your behalf.

## Do I need a solicitor?

Using a probate solicitor is not compulsory in England or Wales, but probate can be a lengthy and time-consuming process, that can involve hours of administrative work and take a year or more to complete. If you undertake the task you need to be sure that you are making an informed decision and understand that, if any mistakes are made, they could have legal or financial implications for you. If you instruct a probate solicitor to carry out this work on your behalf, they will take full responsibility for their work.

## What is involved in administering an estate?

Each estate that we administer is different and it is difficult to predict at the outset exactly what will be included in each one. However, generally speaking, the following steps are involved in administering an estate:

### Assets are frozen

When someone dies, their assets are frozen. This means that their bank accounts cannot be used and, generally speaking, the monies cannot be accessed, nor items sold, until a Grant is obtained from the Probate Registry.

### Establish the existence and validity of the Will

The Will confirms who is entitled to apply for a Grant of Probate and to administer the estate. These people are the personal representatives.

The Will also shows how the estate is to be distributed following the payment of any debts, expenses, taxes and legacies. If there is no Will, the estate will be administered and distributed in accordance with rules laid down by law.

### Preparing the Application for a Grant of Probate

The personal representatives will need to give certain information to the Probate Registry. They must confirm the value of the estate and this will include:

- obtaining probate valuations of assets and liabilities;
- correspondence regarding other routine administration matters (for example, relating to the maintenance of any property);
- correspondence with personal representatives and beneficiaries;
- correspondence with HM Revenue & Customs (HMRC), accountants and various other bodies, regarding the deceased's tax affairs; and
- statutory advertisements are placed with time limits to identified debtors or any claims against the estate.

### Raise funds to pay Inheritance Tax (IHT)

If the value of the estate exceeds £325,000 (and in certain other situations), the Probate Registry will also need to have confirmation from HMRC that any IHT due has been paid before they will issue the Grant.

The HMRC Account and supporting schedules must be completed and submitted and funds made available to pay the IHT and Probate Registry fees. Compilation of this information can take a substantial amount of time and it would be unusual, even in a small, straightforward estate, to reach this stage within two to three months.

### **Legal Statement**

This information will provide an accurate value of the estate. Once the relevant information has been received, the papers are prepared for submission to the Probate Registry. These include the 'Legal Statement' (a formal document which gives the information required and which must be signed by the personal representatives).

### **The Grant is issued**

The papers are then filed with the Probate Registry. Assuming there are no complications, the Grant is generally issued within four weeks of the application.

### **Distribution of assets**

Once the Grant has been received, the process of collecting in, transferring and selling assets may begin. Again, this can take some time, depending on the nature of the assets.

When the first cleared funds are received, any outstanding debts, taxes and administration expenses are settled, and any legacies paid. At this point the personal representatives may consider making interim distributions to residuary beneficiaries (those entitled to the balance of the estate). In some estates such distributions will not be advisable until at least ten months after the Grant is issued.

### **Financial and taxation matters**

Tax planning may be necessary depending on the value of the estate which ordinarily needs to take place within two years of the date death and any outstanding tax returns and corrective accounts will be completed. Confirmation should be obtained from HMRC that they do not require any further information or payment for:

- the deceased's personal tax affairs to the date of death;
- IHT connected with the estate; and
- the personal representatives' tax affairs during the administration of the estate.

It generally takes some time for these matters to be dealt with and it is impossible to predict whether they will take weeks or months.

### **Completing the administration**

When all assets have been collected, liabilities discharged and clearance received from the Revenue, the Estate Accounts need to be finalised. These will set out full details of the administration of the estate and will then be sent to the personal representatives (and residuary beneficiaries, if appropriate) for approval.

Once the accounts have been approved the final distributions will be made and the residuary beneficiaries will be provided with any relevant Tax Deduction Certificates.

### **Working with DMH Stallard – you are in safe hands**

Our solicitors have the legal experience and expert knowledge to guide you through the probate and estate administration process so that it meets your needs. We can help you consider all eventualities and help you plan. We work closely with clients to help them achieve their long term goals and priorities.

### ***Protecting your family's welfare and assets***

For the complete care and protection of families and their assets, our private client team supports clients with sensitivity, precision and expertise.

### ***Our services for business***

DMH Stallard also delivers successful outcomes for businesses by providing tailored legal services with energy and creativity, backed by technical expertise.

### **Contact us**

For an informal discussion, or if you have any questions about the probate and estate administration process, please get in touch with our legal team.

Call us on 03333 231 580

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