



A Guide to
**Estate
Administration**



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After a death, what happens first?

After the death of a partner or loved one, those left behind not only have the funeral, sadness and emotional turmoil to deal with, but also the realities and practicalities of everyday life. The deceased's affairs have to be dealt with, sometimes a house sold and usually an estate administered and wound up.

The ownership of the deceased's assets pass, at first instance, to the Personal Representatives and not automatically to the beneficiaries. If the deceased left a Will the burden and worry of who does what and gets what is removed.

But, if the deceased did not leave a Will, deciding who deals with the deceased's affairs and who inherits the estate may not be straightforward. You are advised to talk to a Solicitor before doing anything. Your Solicitor will advise your Personal Representatives what needs to be done.

What are Personal Representatives?

Personal Representatives (or PRs) are either:

- The people named by the deceased in a Will to administer the estate, they are known as Executors; or
- If no Will was left, the next of kin of the deceased, are usually appointed to administer the estate. They are known as Administrators.

The PRs often employ a Solicitor to advise and assist in the administration. A Solicitor may be appointed as a PR. PRs can be, and often are, the main beneficiaries of the deceased's Will or Intestacy.

What do PRs do?

A PRs job is to:

- Collect in the deceased's assets ("the estate").
- From the money in the estate, pay off the deceased's debts and liabilities including any Inheritance Tax due.
- Work out who is to inherit the remaining assets; and distribute the correct assets to the right beneficiaries at the appropriate time.

Do I have to act if I'm appointed?

No, you do not have to. You have a choice before becoming involved.

If you choose not to act as an Executor this is called 'renouncing'. An Administrator who does not want to act is 'passed over'. An Executor may also have "power reserved" to him leaving a Co-Executor to deal with the Estate.

Having "power reserved" means you can step in later if required. However, once you have started to be involved in the administration of an estate, you cannot simply change your mind just because things get difficult, although you can retire for a good reason, such as ill health.

Will it cost 'me' anything?

Not if you act correctly!

The PRs can seek a solicitor's advice to help to deal with the administration of an estate and the cost is met from the money in the estate.

The PRs may also need further specialist advice during the administration, e.g. from professional valuers, an accountant or stockbroker's advice on investments, and again the cost is met by the estate.

Are there any liabilities?

Yes, there are responsibilities involved in being a PR.

There are several Acts of Parliament and many other legal requirements covering a PR's rights, duties and obligations. This is because PRs and Trustees may have control over large sums of other people's money.

The beneficiaries can get compensation from the PR's own money if the PRs are dishonest, careless or act wrongly. PRs are expected to put the interests of beneficiaries first and before their own. They must always act in the best interests of the estate.

It is therefore sensible for PRs to take legal advice to protect themselves.

What is involved in the Estate Administration?

Realistically each estate, like each family, is unique and thus can give rise to a range of issues. We will assist the PRs to the extent they wish to help sort these out.

Some people like to 'have a go' themselves. Whilst this is entirely possible, we find that the reality is that it takes the lay individual longer and can give rise to problems for the future. What seems straightforward is often not the case due to a lack of awareness of the issues.

The Internet for background information will point you in the right direction but there is no substitute for using a practice of solicitors specialising in this area.

How can Thomson & Bancks LLP help?

First, telephone our bereavement team in any of our offices immediately after the death, and we will be pleased to provide initial practical guidance and support free of charge covering:

1. The immediate next steps that you need to take.
2. Clarification as to whether a Grant of Probate/Letters of Administration is required.
3. Options and choices available to you.

Going forward, we can then provide cost information and a home visit if required.

What do we charge?

We have found over many years of experience that clients, whilst wishing to pass the burden of dealing with a loved ones estate to an experienced solicitor, are equally anxious quite understandably to ascertain at the outset the professional costs of doing so.

We are, therefore, faced with balancing these aspirations against the reality of not really knowing at the beginning of any new matter what precisely is involved and what issues may arise during the administration period. In an effort to manage these conflicting issues we offer our clients a choice over how our professional fees can be calculated.

We are flexible and transparent and can offer tailored packages to suit your requirements.

This information note is for general guidance only and based on the legal position to date. You should not act or refrain from acting on the basis of this note and should discuss your individual situation and requirements with us. Information correct at date of print June 2021.

What is the Grant of Representation?

This is a document issued by the Probate Registry (which is part of the High Court), which gives the PRs authority to collect the deceased's assets and administer the estate.

To obtain the Grant the PRs have to sign a Legal Statement (called the Oath) to confirm that they will administer the estate properly. If the deceased left a Will, the Grant of Representation is called the Grant of Probate. If no Will was left, it is called the Grant of Letters of Administration.

What is the difference between Trustees & PRs?

The PRs are really only in charge of the deceased's estate during the administration, until it has been distributed to the beneficiaries.

Trustees may then take over from the PRs if a trust arises from the estate.

What is a Trust?

A Trust is where money or assets are held by one set of people (the Trustees) for other people (who are called Beneficiaries), for example for children until they reach 18 years.

Often the same people are appointed as Trustees and PRs.



If you require further information, then please contact the Private Client Department of Thomson & Bancks LLP using the details below and we will be happy to help you.

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