

INTRODUCTION

Winding up a family estate is not difficult and is well within the capabilities of most people. It is usual for family members to wind up the affairs of a loved one themselves, and doing so rarely causes problems. What is going to be involved will be largely administrative, and most people can undertake it without any need to appoint a solicitor or professional probate practitioner.

It is however time-consuming and can involve a lot of work. It is not something which should be undertaken lightly. Carrying out the administration of the estate of a loved one who has died yourself will nevertheless save you and the estate considerable sums of money.

There are a multitude of professionals who will be only too willing to carry out the administration on your behalf, if you instruct them to do so. However, very often the cost of instructing a solicitor or probate practitioner will not be justified in a straightforward family estate. The cost of instructing a solicitor to administer even a straightforward estate is going to run into several thousands of pounds. This will be money payable by the estate but will reduce the amount payable to the residuary beneficiaries.

Your task, if you decide to carry out the administration yourself, will be to carry out the wishes of the deceased as set out in their will or, if they did not leave a will, to distribute the estate in accordance with the intestacy provisions. This will involve locating the will and ensuring that it is valid. You must then take charge of all the assets, pay any debts and, having paid any taxes due, obtain a grant of probate and distribute and account to those entitled. It is an appointment which can be burdensome and will take up much of your time. Your duties as an executor carry much responsibility. They can be enforced by beneficiaries or those claiming from the deceased through the courts, and you could be made personally liable for any failures. You have a duty of care towards them.

As the person entitled to administer a deceased's estate, and having agreed to do so, you will be responsible for carrying out the following tasks:

- locating the will and ensuring that it is valid and the last will executed by the deceased;
- notifying interested parties of the death and advising beneficiaries about their entitlements;
- securing and valuing the deceased's assets and listing the debts and liabilities;
- assessing the liability to inheritance tax;
- completing the necessary paperwork for obtaining a grant of probate if required;
- closing bank and other accounts, disposing of assets and paying debts and liabilities;
- obtaining inheritance tax clearance, protection from Inheritance Act claims and claims from unknown beneficiaries and creditors;
- preparing an estate account, paying legacies and distributing the residuary estate.

A flowchart to show the full process of winding up an estate can be viewed [here](#).

This book aims to explain and help you through all of the tasks that you will be required to carry out. It contains all that you are likely to need to know, which together with common sense and a little organisation will allow you to efficiently carry out an administration quickly and efficiently.

There are however exceptions. Sometimes professional help can be required, and you will need to instruct a professional to assist with the administration. This might be where it seems that someone intends to challenge the will, where life interests or trusts are involved, or where there are uncertainties such as to whom are the beneficiaries. There will be other cases, and if you take on the administration, you must always be prepared to consult a solicitor or probate practitioner, if you have any uncertainties.

For the sake of simplicity, throughout this book we refer to the person winding up the estate as the executor, even though he might more correctly be a personal representative or administrator. We simply refer to the 'grant', whether this is a grant of probate or letters of administration in an intestacy. For 'he' include 'she', without any suggestion of gender preference.

There are in addition some basic terms which will be used throughout the book, and which need to be understood from the outset. All the property belonging to a deceased at the moment of death is his or her estate. The person with legal authority to administer and wind up the estate is the deceased's personal representative. A personal representative may be an executor if appointed as such in a will, or an administrator if acting under an intestacy.

The authority to administer an estate is given by the High Court through regional Probate Registries, which are in most large towns and often situated within the County Court. They issue what is known as the grant of representation to the estate, which will be either a grant of probate where there is a will, or a grant of letters of administration in an intestacy. They both have almost identical effect and will be referred to throughout this book just as the grant.

CHAPTER 1. WHO CAN WIND UP THE ESTATE?

Any person who is aged over 18, of sound mind and not bankrupt can obtain a grant of probate and administer an estate in England and Wales.

If the deceased left a will appointing executors, as will have been the case in a well-prepared will, the named executors are the only ones entitled to carry out the administration and obtain a grant (of probate). The responsibility is theirs and no others', unless they decide to renounce their appointment.

If the will appoints more than one executor, they are both entitled to carry out the administration, but it is.....

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