



PROBATE / ADMINISTRATION OF ESTATES

What is Probate?

Probate is a term generally used for dealing with the estate of a deceased person. It is actually the title of the legal document which authorizes the Executors of a Will to deal with the assets and property of a deceased person.

The Grant of Representation

The Grant of Representation ('the Grant') is a general term for the legal document issued by the Probate Registry to allow certain people to deal with the deceased person's estate. Probate is one form of the Grant and is issued to the Executors named in the Will. Where there is no Will or a Will is invalid (known as 'Intestacy') the Probate Registry issues Letters of Administration. Where no Executor is named in the Will or the Executors named are unwilling or unable to apply for the Grant then Letters of Administration (With Will) will be issued. In certain circumstances a Grant of Representation may not be necessary, for example, where all assets are jointly owned or for an estate of a low value. However, it will still be necessary to ensure that all assets, debts and liabilities have been dealt with.

The Personal Representatives

The person or people who deal with a deceased person's estate are called Personal Representatives. Where these people have been named in a Will and are willing and able to act they are called Executors. Where there is no Will, an invalid Will or where the named Executors are unable or unwilling to act a person or people can be appointed to act as Administrators. There are certain legal rules to determine who is entitled to be an Administrator.

The Role of a Personal Representative

As well as several practical duties such as registering the death and arranging the funeral it is the responsibility of the Personal Representative to distribute the estate to the correct people (known as the 'Beneficiaries'). If you are an Executor this will involve implementing the terms of the Will. If you are an Administrator you will have to distribute the estate in accordance with certain legal rules.

Once the initial matters of registering the death and arranging the funeral have been carried out it will then be necessary to ascertain the value of the estate in order to establish whether a Grant is required and if so to prepare the necessary papers to apply for the Grant. We will undertake the task of writing to all the various people and institution with whom the deceased had dealings.

Once we have details of all the assets and liabilities of the estate we will then prepare the necessary Inland Revenue Forms and Oath. The Oath needs to be sworn by the Executor or Administrator and we will arrange this process for you before submitting the documents to the Probate Registry and the Inland Revenue as appropriate in order to apply for the Court Sealed Grant. At this point it may be necessary to raise some monies in order to pay any initial inheritance tax bill. We will of course advise you on this point and consider with you the most appropriate way of raising the necessary monies.

To avoid the Funeral Directors having to wait for payment of their account we can arrange on your behalf for this to be settled from the deceased's bank account providing there are sufficient monies and it therefore may be easier for you to advise the Funeral Directors to send their account direct to us.

Once the Grant has been received we will supply the sealed copies to the necessary companies and institutions to obtain the funds held on behalf of the deceased. We can also arrange the sale of any investments or the deceased's property on your behalf.

Once we are in funds we can arrange for the liabilities to be settled.

To protect Executors and Administrators we advise that a Statutory Advert should be placed in the local paper where the deceased lived and also the London Gazette. This gives a time limit of two months from the date of the advert for any persons having a claim against the estate to come forward. If no claims are made during this period then the Executor can distribute the estate fully protected from any claims which may come to light in the future. There is also a time limit of six months from the date of the Grant in which any persons who may feel that the deceased should have made provision for them can make an application to the Court for financial provision. It is therefore best advice for a period of six months to elapse from the date of the Grant before monies are distributed however the Executor or Administrator can distribute earlier than this if they wish to do so.

On conclusion of the administration of the estate we will provide a full Estate Account detailing all financial transactions which have taken place and once this has been approved we can finalize the administration of the estate and pay the monies to the beneficiaries.

Provided legacies are paid within twelve months of the death no interest accrues upon them. After the twelve month period then interest is payable at the Court Rate applicable at the time.

Personal Representatives out of pocket expenses

Generally Executors and Administrators cannot charge for their time in connection with dealing with the administration of an estate unless the Will specifically provides for this. Most Wills do not make any provision for Executors to receive payment for their time and therefore only out of pocket expenses can be paid. It is therefore important that you keep a proper record of all expenses incurred in connection with dealing with the estate including but not exclusively telephone calls, travel expenses and any payment made on behalf of the estate such as the fee for death certificates.

How Vingoe Lloyd Can Help

The Private Client department at Vingoe Lloyd understands that it can be a distressing time following the death of a close friend or relative and realize that the administration of an estate can be a daunting task. We can advise and assist you with any aspect of the administration process whether or not a Grant of Representation is required. In particular we can assist with any of the following aspects:

- Interpreting the Will or advising on its contents or on the Intestacy provisions where there is no Will.
- Informing the Beneficiaries of their entitlement and assisting in ensuring that all Beneficiaries are identified and located in intestacy situations.
- Identifying and informing the various asset holders of the death and obtain valuations of the assets where necessary.
- Identifying liabilities and informing creditors of the death and placing the necessary advertisements to unknown creditors and Beneficiaries.
- Advising on whether any post death variation can be made to the Will to mitigate any Inheritance Tax liability or otherwise re-distribute the estate.
- Preparing the necessary Inheritance Tax forms and endeavoring to ensure that any Inheritance Tax due is paid within the applicable time limits.
- Preparing the Oath and applying to the Probate Registry for the Grant of Representation.
- On receipt of the Grant of Representation applying to the asset holders for the release of the assets, dealing with any necessary sales of stocks, shares or property and thereafter settling any outstanding liabilities.
- Paying any legacies or interim distributions to the Beneficiaries.
- Transferring assets to Beneficiaries where appropriate.
- Corresponding with H M Revenue and Customs to ensure Income Tax and Inheritance Tax and any other tax liabilities are finalized and

- agreement is reached in respect of the valuation of any assets retained by the Beneficiaries.
- Preparing final Estate Accounts for approval by the Personal Representatives.
 - Setting up any necessary Trusts imposed by the Will or Intestacy.
 - Paying the balance of monies held to the Residuary Beneficiaries and receiving their receipts.

Evidence of your Identity

We may need to obtain formal evidence of your identity. It will help us if you can bring this evidence to the first meeting. We would normally ask for a passport or photocard driving licence plus two documents confirming your address, such as recent utility bills, council tax statements or bank statements.

If you need assistance with applying for Probate or Administering an Estate please contact our Private Client Department to make an appointment

Helston (01326) 555800
Hayle (01736) 754075

We can also assist with Wills, Lasting Powers of Attorney, Trusts and Estate Planning