

BVA

BANA VAID & ASSOCIATES
— S O L I C I T O R S —

Probate



Relax You're in Safe Hands

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GUIDE TO CLIENTS ON PROBATE

When someone passes on there are many arrangements and decisions to be made at this most distressing time.

The aim of this guide is to help you with the administrative and financial issues you may have to consider when someone dies.

In the first few days:

- Register the death.
- Arrange the funeral.

In the first few weeks:

- Deal with the Will.
- Sort out what happens to the estate if there is no a Will.

In the next three months:

- Obtain Probate or Letters of Administration if this is required.
- Consider the family's financial situation as a whole - would it be appropriate to make a Deed of Variation?
- Administer the Estate according to the terms of the Will, Intestacy or Deed of Variation.
- Make or review your own Will.

We will be happy to assist or guide you at any stage through the complex and complicated area of administering the Estate and reduce the pressures and worries of being an Executor or Administrator.

We have highlighted for you below some of the more complex and difficult areas to deal with when someone dies.

Dealing with the Will

If the deceased had made a Will, there should be a copy amongst his personal papers. If you cannot find one, check with his Solicitor, bank or other adviser who may have helped him make a Will, or be holding it in safe custody. If there is no Will, the deceased is said to have died 'intestate' and his Estate will be distributed according to the rules of intestacy.

What does the executor/administrator do?

- Make an inventory of the estate, including money in bank accounts, savings, investments, insurance policies, shares, property and other possessions.
- Apply for Probate, if necessary, either in person at the Court or through the services of a Solicitor.
- Find out who owes the estate money, and to whom the estate owes money, and arrange for this money to be paid.
- Pay any Inheritance Tax (IHT) that is owed. IHT is currently payable on everything in the estate over the value of £325,000. Any IHT liability must be paid, at least in part before Probate will be granted.
- Pay any bequests. Only after all debts and taxes have been paid can the remainder of the estate be distributed to the people and organisations named as beneficiaries in the Will.

An administration may take up to a year to complete, longer if a property has to be sold or there are complicated tax issues.

Applying for Probate

Probate is a legal document that entitles the Executor or Administrator to make and receive payments from the Estate and deal with the assets and property of the deceased.

If the Estate is small, or if it is held in joint names and passes automatically to the surviving owner (as is often the case with married couples, for example), you may not need to apply for Probate. You will need to get a Grant of Probate if there is a Will or a Grant of Letters of Administration if there is not, if you are unsure we can advise you.

When you apply for Probate, you are promising the Probate Court that you will deal with ('administer') the Estate as set out in the Will and according to the law. Probate makes sure that the Executors carry out their task properly.

Initially, our main task will be to notify the death to all those who need to know. So, for example, this will include, if relevant, the Water Rate Authorities, the Council Tax Office, the Electricity, Gas and Telephone companies and any other person or organisation who we feel should be notified.

The application for the Grant has to show the value of the Estate at the date of death and it is necessary to write to the asset holders to notify them of the death and obtain from them details of the value of the assets they are holding. We need this information, as the value of the Estate must be stated on the Oath and any other papers that are required to enable us to apply for the Grant of Representation.

There will be an Oath to be sworn by the Personal Representative and, in the event of the Estate being of a sufficient size, there will be an Inland Revenue Account which will need to be completed and signed by them. If we are Executors we will of course attend to this ourselves. If Inheritance Tax is payable then the sum will be required before the Grant is obtained. We will discuss with you the way to raise this sum if this applies.

If you are the Personal Representatives then the papers will be sent you in due course with full instructions as to what needs to be done. Once these documents have been sworn and signed as appropriate the application will be made to the Probate Registry for the Grant of Representation. This will take approximately three weeks to be dealt with.

When we receive the Grant, we will register this with the asset holders and proceed to collect the sums due to the Estate. Such monies will be applied in discharging the liabilities at death and any debts arising in connection with the administration of the Estate.

Once all matters in connection with the administration have been dealt with, i.e. assets collected in, property (if any) sold or transferred, tax matters settled, then the Estate can be wound up in readiness for distribution according to the terms of the Will or (if there is no Will) by the statutory rules which apply when a personal dies intestate.

At this stage, final accounts will be prepared by us showing all matters that we have dealt with on your behalf and detailing how the Estate is to be distributed. After the accounts have been approved by the Personal Representatives and by the residuary beneficiaries, the final distribution is made, including any closing interest earned on the money.

If there is no Will

If someone dies without leaving a Will then the Personal Representative has to show that he is one of the persons entitled to the Estate under the rules of intestacy and this is known as the Grant of Letters of Administration.

In this case, the Personal Representative must distribute the balance of the Estate according to the rule of intestacy.

If you would like any further information or advice relating to Probate or Wills, please feel free to telephone our offices to make a mutually convenient appointment to discuss matters further.