

BEREAVEMENT GUIDE

Introduction

The death of a relative or close friend is a difficult time even before you start thinking of dealing with the deceased's financial affairs. Most people will never have been had to deal with a death previously and can become confused by a host of legal terms and procedural matters. It is hoped that this guide will give an idea of the steps that have to be taken and help ease the process whether you are an executor, administrator or beneficiary and whether or not professional advisors are involved.

Getting Started

It would be useful to get the following information together before you start:

- National Insurance number
- NHS number
- date and place of birth
- date of marriage or civil partnership (if appropriate)
- tax reference number

First steps

- notify the family GP
- register the death at a register office
- find the will - the deceased person's solicitor or bank may have a copy if you can't find one.
- begin funeral arrangements - you will need to check the will for any special requests
- if relevant, complete form BD8 given to you when you register the death and send to the local Jobcentre Plus or Social Security

- if the person who has died was receiving any benefits or tax credits, advise the offices that were making the payments - if you can't find relevant correspondence, use the links below to the tax credit helpline and Jobcentre plus
- if you or your partner are on a low income, you may be able to get help towards the costs of a funeral from the social fund for a 'funeral payment'. This depends on the type of benefits you are receiving and your relationship to the deceased. If you are eligible you will need to make a claim on form Form SF200 which can be downloaded at http://www.dwp.gov.uk/advisers/claimforms/sf200_print.pdf or follow the link on our website. A funeral payment includes necessary burial or cremation fees, certain other specified expenses and up to £700 for any other funeral expenses, such as the funeral director's fees, the coffin or flowers.

Next steps

- Notify the executors who can start the process of obtaining probate. This will tell you who is appointed. If the executor appointed has died or is unable to act or there is no will then an administrator(s) will need to be appointed by the Court and this will normally be one or more of the beneficiaries under the will or intestacy.
- Unless the estate is small, the executors or administrators will not be able to gain control of the assets without producing the grant of probate or letters of administration, commonly referred to as 'probate'. They will need to ascertain details of the estate which includes values of each asset, such as bank and building society accounts, insurance policies and stocks and shares, or in the case of freehold or leasehold property and furniture and jewellery, to obtain a professional opinion as to its value. The deceased's personal papers, bank statements and tax returns should be checked and also, here is a helpful list of people you may need to contact to:

Government organisations

- the relevant tax office
- National Insurance contributions office if they were self-employed (to cancel payments)
- Child Benefit office (at latest within eight weeks)
- Tax Credit office
- local authority if they paid council tax, had a parking permit, were issued with a blue badge for disabled parking, or received social services help, attended day care or similar
- UK Identity and Passport Service, to return and cancel a passport
- DVLA, to return any driving licence, cancel car tax or return
- car registration documents/change ownership

Financial organisations

- general insurance companies - contents, car, travel, medical etc
- any other company with which the deceased may have had rental, hire purchase or loan agreements
- if the deceased was the first named on an insurance policy, make contact as early as possible to check that you are still insured
- pension providers/life insurance companies
- banks and building societies
- mortgage provider
- hire purchase or loan companies
- credit card providers/store cards

Utilities and household contacts

- landlord or local authority if they rented a property
- any private organisations/agency providing home help
- utility companies if accounts were in the deceased's name
- Royal Mail, if mail needs re-directing
- TV/internet companies with which the deceased had subscriptions

Steps to getting Probate

- The forms you need to complete depend on where the person lived and whether or not you expect Inheritance Tax to be due on the estate. Inheritance Tax is only paid in a small number of cases, when the taxable value of the deceased person's estate (after exemptions) is over the £325,000 threshold (applies for deaths in the 2009-2010 tax year).
- Once the assets and liabilities of the estate have been established, the application for probate can proceed.
- You may wish to appoint a solicitor to help you with the administration of the estate, or you may wish to apply for probate without the assistance of a solicitor. In the latter case you will need to attend an interview at the Probate Registry to confirm the details in your application.
- Once the grant has been issued, it has to be registered with the holders of the assets, e.g. banks and company registrars. It is advisable to request certified copies from the Probate Registry at the same time as you apply for the Probate. These cost £1.00 each. Once the assets have been released, the liabilities of the estate can be paid.
- If there is a property in the estate and it is to be sold then this will probably involve the appointment of estate agents to handle the sale. There is no reason why this should not be arranged prior to the grant, although this will be required before completion of the sale can take place.

- Similar considerations apply if there is furniture or jewellery to be sold when the services of auctioneers may be appropriate.

Beneficiaries

These are the people entitled to share in the estate either in accordance with the terms of the will or under the Rules of Intestacy. There are various types of beneficiary (sometimes called legatees), depending on whether they are entitled to a fixed cash sum, a particular item such as jewellery or a share of what is left (residuary beneficiary).

It is normally considered courteous and good practice for the executors or administrators or professional advisors on their behalf to notify beneficiaries of their entitlement. Residuary beneficiaries should be given a copy of the will and details of the assets and liabilities of the estate as ultimately the executors or administrators have to account to them for what has happened to the estate.

Distributing the estate

Before distributing the estate, the executors or administrators may wish to consider advertising in accordance with the Trustee Act to protect against unknown claims. They may also wish to consider the possibility of claims under the Inheritance (Provision for Family and Dependents) Act.

Once the executors or administrators have gained control of the assets they must pay the liabilities and may then consider distributing to the beneficiaries. They will first need to assess what reserve to make to cover the remaining outgoings, such as any taxes and the expenses and costs of dealing with the estate.

It is usual to discharge the cash legacies and the specific items before making payments to the residuary beneficiaries as the former have a higher priority.

Other matters

The deceased's Income Tax affairs have to be completed and this is a matter that should be initiated at an early stage. If an accountant or other advisor had been employed by the deceased, it is usually practical to arrange for them to complete this.

Assets abroad can often involve legal formalities in the country concerned, including tax. It is usually necessary to appoint lawyers or other agents there to deal with such aspects and this can lead to considerable delay in finalising the estate.

And finally

Once all the assets and liabilities have been established and the Income Tax position finalised, a final return can be made to the Inheritance Tax authorities, who in the meantime may well have raised queries on what was previously submitted. Once paid, a formal letter or certificate of clearance will be issued. The distribution of the estate can then be finalised including the estate's own Income Tax Return and payment made to the residuary beneficiaries. The executors or administrators should then prepare a full statement of account showing how they have dealt with the estate. The residuary beneficiaries are entitled to a copy of this.

If the estate is not to be distributed because some or all of it is to be held in trust under the terms of the will or Intestacy Rules or because there are minor

beneficiaries, then it is at this stage that the duties of the trustees commence. The trustees will usually be one and the same as the executors or administrators.

In conclusion

It is never possible to say precisely how long the administration will take because this depends on the nature of the assets and what arises. If there is a business to wind up or claims against the estate involving legal proceedings then it may become protracted.

It is hoped that this brief outline will assist in guiding you through the process.

Some common legal terms explained

Administrator

The person(s) appointed to distribute the estate if someone dies without a valid will or without appointing executors or if the appointed executor is unable or unwilling to act

Bequest

A term sometimes used instead of legacy

Capital Taxes

The office of HM Revenue and Customs that deals with the administration of Inheritance Tax

Codicil

A separate document amending the terms of an existing will

Estate

All the assets of a person at the time of death

Executor

Person appointed to put into effect the terms of a will

Intestate/Intestacy

When a person dies without a valid will they are said to be intestate. The estate is then distributed according to statutory regulations called the Rules of Intestacy.

Legacy

A gift under the terms of a will

Letters of Administration

Official acknowledgement by the Court of the appointment of administrators

Pecuniary Legacy

A fixed sum of money given by will

Personal Representative

Generic term for executors and administrators

Probate (Grant of)

Official confirmation by the Court of the validity of a will and the executors named in it

Probate Court

A division of the High Court but not a Court in the popular concept – there are no judges and juries. Rather it is an administrative office staffed by Civil Servants. The main office is in London with branches around the Country.

Residuary Beneficiary

The person(s) who receive what remains of an estate after all other legacies, liabilities, tax and expenses have been paid

Residue

The remainder of the estate after all specific and pecuniary legacies, liabilities, tax and costs have been met

Specific Bequest

A gift of a particular item (not money) given in a will

Testator/Testatrix

The person making a will (male/female)

For more details and advice contact you local specialist probate lawyer:

Miss Emma Hardwidge

RLE Law

4 Derwen Road

Bridgend

CF31 1LH

Tel: 01656 656861

Fax: 01656 859475

Email: Emma.hardwidge@rlelaw.com