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Please note that this is a general guide and not to be relied upon when taking any personal or business decisions and that it is not a substitute for legal advice tailored to the reader's circumstances.

Probate and Intestacy

The death of a loved one is always an emotional and distressing time. Unfortunately there are many things that have to be done. We can assist you in sorting out the formalities relating to the administration of an estate, whether or not there is a Will. We are also experienced in those cases where matters are not straight forward and where action needs to be taken in relation to the Will for example, a deed of variation.

When someone dies they leave assets in their name e.g. a house, bank accounts, shares etc. Whoever holds the assets (Land Registry, Bank, Share Registrars) will usually (unless the estate is worth less than £5,000.00) want to see a Grant from the court prior to releasing the assets.

There are two main types of Grant.

1. Where a deceased leaves a valid Will appointing an executor who is able and willing to prove the Will, then a Grant of Probate will be issued to them.
2. Where the deceased has not left a valid Will, then a Grant of Letters of Administration will be issued to the persons entitled.

Grant of Probate

Probate is the legal procedure to decide whether a deceased person has left a valid will. When a person makes a Will they appoint an executor to administer the estate when they die. The executor must make an application to the Court through the local Probate Registry to prove the Will and extract the Grant of Probate. Generally (unless the estate is worth less than £5,000.00) assets will not be released to the executor without sight of a Grant of Probate.

Grant of Letters of Administration

This applies when the person who has died has no left a Will and has therefore not appointed an executor. The order of priority of entitlement to the Grant of Letters of Administration is the same as the order of entitlement to benefit from the Intestate's estate.

1. A spouse/civil partner
2. Issue (Children or remoter issue)
3. Parents
4. Brother or sisters (who share the same two parents as the Deceased) or their issue
5. Half brother or sisters or their issue
6. Grandparents
7. Uncles or aunts or their issue

8. Half uncles or aunts or their issue
9. The Crown (Treasury Solicitor)

The Grant of Letters of Administration, once extracted, confers authority on the person to act in the administration of the deceased's estate (known as the administrator). They then have the same responsibilities as an executor.

If you are an executor or an administrator then you are responsible for:-

- Proving the Will by obtaining a Grant of Probate from the Court or Obtaining Letters of Administration where there is no Will (on intestacy)
- Establishing the asset base and realising the assets of the estate
- Completing any necessary tax returns
- Dealing with the sale of the Deceased's property
- Settling any liabilities including payment if any tax due
- Distributing the estate in accordance with the terms of the Will
- Completing Estate Accounts for the Beneficiaries of the Estate

If you are appointed as an executor or you are the person to extract a Grant in an intestacy the thought of carrying out these tasks may sound daunting and time consuming but we are here to help. We have an experienced team who specialise in the administration of estates, ensuring the whole process is completed smoothly and promptly. We can arrange for the probate valuations of all the assets as at the date of death, including instructing any agents to value property and stockbrokers to value shares. We can also assist with the completion of the Inland Revenue Accounts, preparing the documents for extracting the Grant, collecting in the assets of the estate after the Grant has been issued, instructing genealogists to trace missing beneficiaries, selling the deceased's property, preparing Estate Accounts and finally paying the money to the beneficiaries.

Please feel free to contact a member of our Probate and Wills Department for a free half an hour consultation without obligation.