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A Guide to Probate  
&  
Estate Administration

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## A GUIDE TO PROBATE & ESTATE ADMINISTRATION

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Gordon Dadds is a leading law firm in Mayfair, London. We have been in existence since 1920 and have acted for many of our clients and families for several generations.

Estate administration can be extremely daunting especially when you are also coping with the loss of someone close to you. Often, you will not have come across many of the procedures before.

We have an established Private Client Department with experienced solicitors who can wind up an estate quickly and efficiently whilst being sensitive to the feelings of the family, at what is often a difficult time. We are flexible in the service we provide - we can manage the entire estate administration for you, just obtain the Grant of Probate, or assist in post-death tax planning through Deeds of Variation. You will find our fees competitive, especially in line with the charges that can be made by banks and other central London firms.

This guide is intended to help you through this process and give you an overview of what is required as well as how we can help you.



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## FIRST STEPS – REGISTERING THE DEATH

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The death must be registered within 5 days of death, usually at the Register Office in the area where the death occurred, although it can be another Register Office if this is not convenient. For Mayfair, this is Westminster Register Office, Westminster Council House, Marylebone Road London NW1 5PT, Tel: 020 7641 1161 [www.westminster.gov.uk/communityandliving/registrar/deaths](http://www.westminster.gov.uk/communityandliving/registrar/deaths) or look online at [www.gro.gov.uk](http://www.gro.gov.uk). It is likely that you will need to make an appointment.

The person who registers the death should be:-

- A relative of the deceased; or
- A person who was present at the death; or
- The person who is arranging the funeral.

In order to register the death, you will need the following information:-

- The Cause of Death Certificate (issued by the doctor/hospital);
- Deceased's full name (including maiden name), address, occupation and marital status;
- Date and place of birth;
- Date and place of death; and
- Details of any deceased spouse.

Once registered, you will be issued with the Certificate for Burial/Cremation (Green Form), which you will need to pass to the funeral directors. You will also be issued with the Death Certificate at a cost of approximately £3.50 per certificate (we would advise you to obtain at least three copies).

Sometimes there may be a post-mortem or inquest where a death is reported to the Coroner (usually where a death occurs suddenly or where the deceased has not seen a doctor recently). This may delay the registration process but an interim death certificate is issued which is usually sufficient for probate purposes.

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## FIRST STEPS – FUNERAL ARRANGEMENTS

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Once the death is registered, the funeral can be arranged.

For details of funeral directors close to you try the National Society of Allied and Independent Funeral Directors, 3 Bullfields, Sawbridgeworth, Herts CM21 9DB Tel: 0845 230 6777 [www.saif.org.uk](http://www.saif.org.uk) or the National Association of Funeral Directors 618 Warwick Road, Solihull West Midlands B91 1AA Tel: 0121 711 1343 [www.nafd.org.uk](http://www.nafd.org.uk)

### WHAT NEXT? THE LEGAL PROCESS

#### Personal Representatives

The Personal Representatives ('PRs') are responsible for administering the estate of the deceased. Where there is a Will, they are called Executors and where there is not a Will, they are called Administrators.

The PRs have a duty to administer the estate in an efficient manner and thereafter distributing it in accordance with the Will or, if there is no Will, then in accordance with rules of intestacy. The rules of intestacy direct that your estate will be passed on to close blood relatives in strict statutory order - please contact us for further information.

If you have been appointed a PR but do not wish to act, it is perfectly possible to step down provided you have not 'intermeddled' in the estate (i.e. been involved in

the practicalities). You can either renounce the role entirely (i.e. give it up) or 'reserve your power' (which allows you to be a PR at a later date if you wish). Again, please contact us for further information and we can assist with drawing up the documentation quickly and efficiently.

### Immediate Issues

The immediate issues a PR should consider are as follows:-

- Locating the deceased's Will (if any);
- Contacting the deceased's bank to freeze the account and to cancel standing orders and direct debits;
- Keeping safe any valuables; and
- Securing any car and notifying the insurers of the death.

### Grant of Probate/Letters of Administration

The deceased's assets are frozen on death and any estate over approximately £15,000 will require a Grant of Probate (where there is a Will) or a Grant of Letters of Administration (where there is no Will) in order to release the assets.

The process involves notifying each asset holder of the death and ascertaining the value of the assets as at the date of death as well as notifying any creditors and ascertaining any amounts owing as at the date of death. PRs also need to ascertain whether Inheritance Tax is payable, file an Inheritance Tax Return and then file an Oath in order to obtain the Grant of Probate/Letters of Administration.

## Inheritance Tax

Inheritance Tax is payable where an estate exceeds the nil rate band (for the current nil rate band, please see our website [www.gordondadds.com](http://www.gordondadds.com)), subject to certain exemptions (including UK domiciled spouses, charities, although foreign domiciled spouses only have a limited exemption – please contact us for further information). There are also reliefs from Inheritance Tax, which include relief in some cases for businesses, agricultural land and buildings and which now also include the provision to carry forward a deceased spouse's unused nil rate band.

An Inheritance Tax account must now be filed in most circumstances, even if there is no actual Inheritance Tax to pay (please see below).

## Next Steps

Once the Grant of Probate/Letters of Administration has been granted, this gives the PRs the authority to deal with the deceased's assets. They can thus be realised or transferred to the beneficiaries. The PRs should consider the wishes of the beneficiaries in this regard as well as having regard to the taxation issues.

The PRs must also finalise the deceased's Income Tax affairs with HMRC, by filing a final tax return.

At this point, the PRs will pay out any legacies under the Will and also consider making interim distributions to the beneficiaries of the estate.

Furthermore, the PRs are duty bound to file tax returns for the administration period of the estate reporting any interest received, other income or capital gains in the sale of any asset.

Capital Gains Tax (CGT) may arise when the PRs realise the assets. This may be the case if there is a property to sell as, although a living person is exempt from CGT on a sale of their house during lifetime, this does not apply to PRs and any increase in the sale price compared with the probate valuation is potentially subject to CGT. It is possible to minimise or even eliminate the CGT in these circumstances. We are experienced in advising on these issues. Please contact us for further assistance.

At this stage, the PRs must finalise the Inheritance Tax affairs by reporting any corrections to the original account and applying for formal clearance. Furthermore the PRs may be able to claim a refund of Inheritance Tax if there has been any loss on sales of shares or property within a certain deadline compared with the probate valuations.

The PRs must consider any possible Inheritance Act claims – please contact us for further assistance.

Once the above issues have been dealt with the estate can be wound up and final distributions made to the beneficiaries.

### Conclusions

Estate Administration is usually extremely time-consuming and given that it is coupled with taxation issues, PRs will usually instruct a solicitor to assist. At Gordon Dadds, we are experienced in dealing with the process quickly and efficiently and therefore can relieve the burden for you.

Although it is possible to obtain a Grant of Probate/Letters of Administration independently without a solicitor, it can be daunting. An Inheritance

Tax Account now has to be filed in almost every case, even if there is no Inheritance Tax to pay. Furthermore, the PRs will need to attend a personal interview at the Probate Registry. Solicitors can sidestep this requirement and thus make the process quicker and easier.

As well as the estate administration, we can also assist with the following associated issues:-

- Advising and assisting with any post-death Deeds of Variation. It is possible to vary the terms of someone's Will/the rules of intestacy within two years of the date of their death, provided that the affected beneficiaries are all adults and all agree. This is useful in that the beneficiaries can plan for tax, pass assets down through the generations or provide for those persons not included in the Will.
- Dealing with the setting up and administration of any trusts contained in the Will or effected by a Deed of Variation.
- Placing funeral notices.
- Renouncing probate or reserving a PRs power (as explained above).
- Sale of property – we have a well-established Conveyancing Department who work closely with us in this regard.
- Recommend any financial advice needed for the beneficiaries.

*Please contact our Private Client Department on 020 7493 6151 for further information on any of the issues raised in this Guide.*



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