

LEGAL MATTERS



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THE PERSONAL REPRESENTATIVE

Wherever the death occurs, it is important to find out if your loved one left a will and if so who the executor is. The will says what should happen to your loved one's estate.

The personal representative is responsible for paying all the deceased debts, taxes and expenses. They make the payments from the estate and not their own income or savings. If you are the personal representative you may have to apply to prove the will - probate or for letters of administration. This will give you permission to pay the bills and deal with the estate.

We would recommend you to contact a solicitor and they will advise you on how to apply for probate.

SMALL ESTATES

If the whole estate comes to less than £5000 it may be possible for it to be released without probate or obtaining letters of administration.

DEBTS

The personal representative is responsible for paying all the debts of your loved one's estate, including the funeral account.

It is best to advertise for creditors - people the deceased owed money to. Unknown creditors are given two months in which to make claims. If you do not advertise you may be faced with personally paying claims made after the money has been shared out.

DISTRIBUTION OF PROPERTY

When all the expenses, debts and taxes have been paid, the personal representative may then distribute anything left of the estate. If there is a will, the personal representative will follow the instructions in the will to carry out the wishes of your loved one.

If there is no will, the estate is shared out according to the rules that consider the rights of a surviving spouse, children, parents and other close blood relatives.

CLAIMS ON THE ESTATE

Whether you are related or not, you can apply for a share of the estate if you were being supported financially in any way by the person who died, immediately before death. If you qualify you must apply within six months of the date on which probate or letters of administration are taken out.

Do not be rushed into parting with goods before taking legal advice. Hire purchase goods can not be repossessed after a third of the purchase price has been paid unless the firm gets a court order. Where a deceased partner has left a debt, you need to contact a solicitor about any liability for the debt.

TAX

If the person who died was paying tax on income from investments or as a self employed person or as an employee, tell the tax office about the death as soon as possible. This will enable the deceased's tax affairs to be settled. Depending on the circumstances this may involve paying some more tax or claiming a repayment.

LEGAL ADVICE - DIXON COLES & GILL, WAKEFIELD

If you have difficulty in dealing with your loved one's property, possessions or guardianship of children we strongly advise and recommend you use a solicitor. It is for your own benefit as the legal side to a death can be very complicated and a solicitor will take away all of the burden associated with this.