



## ADMINISTERING AN ESTATE

### INTRODUCTION

Cameron Jones Hussell & Howe Ltd is a local Firm providing a comprehensive range of legal services to the general public. We aim to provide an effective and efficient service in a friendly and approachable manner, and to combine modern ideas and technology with the traditional values of a family practice.

### YOUR MATTER EXPLAINED

We fully appreciate that the loss of a close family member, friend or colleague can mean that this is an upsetting and difficult time for you. A number of formalities in connection with the administration of the Estate nevertheless need to be observed. We will endeavour to assist you in dealing with these formalities sympathetically and with the minimum fuss and disruption and to ensure that the administration proceeds as smoothly as possible.

This brochure explains what the administration generally involves and helps to clarify some of the terms that we use.

### IF THERE IS A WILL

The Will records the last wishes of the deceased and appoints one or more Executors. These are the persons chosen by the deceased to deal with the administration of his/her Estate. They are effectively our clients, and we advise them and act in accordance with their instructions. They of course have a duty to carry out the deceased's wishes and to ensure that the administration of his/her Estate is properly completed. This may involve consulting the beneficiaries as to their wishes.

Sometimes, the Will creates Trusts which will continue beyond the end of the administration period. This may be for example because some of the beneficiaries are children. In such cases, the Executors are usually appointed as Trustees to deal with these continuing Trusts.

The terms of a Will can of course vary enormously. Generally speaking however the Testator (i.e. the person making the Will) will make gifts of specific items (known as bequests) or cash sums (known as legacies) to various persons before leaving the residue of their Estate to residuary beneficiaries. These persons are entitled to everything left by the deceased not specifically disposed of to someone else.

Generally the funeral and testamentary expenses and other debts are paid out of the residue before distribution.

Occasionally, beneficiaries will ask for certain assets which could include houses, Building Society accounts, shares and other items to be transferred to them rather than cashed in. This is usually possible although some assets (e.g. Premium Bonds) are not transferable and must be cashed.

### IF THERE IS NO WILL

If the deceased dies intestate i.e. without leaving a Will, then there are rules for establishing who is entitled to administer the Estate and who the beneficiaries are. Those appointed to administer the Estate are known as Administrators. They have the same role as Executors in administering the Estate of the deceased, but have to distribute the deceased's assets in accordance with statutory rules rather than in accordance with the deceased's wishes.

### THE ADMINISTRATION

Except for small Estates, it is usually necessary for the Executors or Administrators to apply for a Grant of Representation. This is the legal document authorising them to administer the Estate. Executors apply for a Grant of Probate; Administrators for a Grant of Letters of Administration. Once issued the Grant is produced to asset holders and others as proof of the Executors/Administrators right to administer the Estate. The administration can then proceed. This will involve closing or transferring assets, paying bills and ensuring that the beneficiaries receive what they are entitled to.

It may be that you have chosen to instruct us merely to obtain the Grant on your behalf in which case our involvement would cease once the Grant is obtained; if however you have instructed us to deal with the whole of the administration of the Estate, we will realise the assets for you and ensure that the terms of any Will are carried out including establishing any Trust that needs to be set up under the terms of the Will or the rules of intestacy. No Inheritance Tax will be payable on the Estate if the total assets do not exceed the tax threshold (currently £325,000.00 for an individual and £650,000 for the survivor of a married couple) or if the Estate is exempt from Inheritance Tax. The most important exemption is in respect of assets left to the deceased's husband or wife. If Inheritance

Tax is payable then a detailed account of the Estate has to be prepared and the tax calculated and paid. There is insufficient space to go into further detail about tax matters here, but we will deal with all tax aspects that arise in the administration. We will also deal with any Inheritance Tax that needs to be paid. On conclusion of the matter we will provide you with Estate accounts for approval.

## CONTACTING US

Please help us to help you by responding promptly to any letters that we send to you and by making appointments when requested to do so. Please try to avoid calling at the office without an appointment, as it may not always be possible to see you in those circumstances. In the unlikely event that you telephone the office and are unable to speak to one of our team, please ensure that our Receptionist has clear instructions as to whether you will phone again or wish to be called back. Please leave your name, phone number and any details of when you will be unavailable.

You are also welcome to contact the person in charge of your matter or his or her assistants at any time for information. You may contact us by telephone, email, fax or letter.

## COSTS

Our charges for Probate work are based on a combination of the time spent on the matter (by reference to an hourly Charge Rate) and the size, extent and complexity of the Estate.

Our bill will also include disbursements. These are payments that we have to make on your behalf. The only anticipated disbursements in this case will be the Probate and Commissioners fees. Occasionally, we

may need to engage the services of other Professionals (such as, perhaps, Enquiry Agents to trace a beneficiary, Stock Brokers to sell shares etc.) and in such cases we will advise you of any proposed expenditure before we incur it. Please note that disbursements are separate from the expenses of the Estate such as the funeral account.

Should the administration of the Estate involve the sale of a dwelling house, this will be the subject of a separate charge. This will depend upon the value of the house concerned. We will discuss this with you as soon as you indicate to us that there may be a sale of the house.

Further information about costs will be set out in our initial client care letter to you including our initial estimate of the total costs and disbursements that will be involved in your particular matter.

If you do have any concerns about the costs you may have a right to object to the bill by applying to the court for an assessment of the bill under Part III of the Solicitors Act 1974. Details available upon request.

## IDENTIFICATION

It is our standard practice these days to request all new clients to provide satisfactory evidence of identity. We enclose herewith a list of the items which are acceptable for establishing this. Please would you be good enough to call at the Office at an early stage bringing with you suitable identification for photocopying. Occasionally, we may be asked by third parties to produce evidence of your I.D. and we will assume unless you advise us to the contrary that you have no objection to us passing on details of your I.D. in such a case.

## COMPLAINTS

We do of course very much hope that you will not have cause to complain about the services which you receive from us. If you do however have any concerns about the way in which your matter is being handled, the costs presented to you or about our services generally, we should be grateful if you would please in the first instance contact the Fee Earner having the overall conduct of this matter in order to discuss your complaint. Should we be unable to resolve any complaint raised by you by this method, then we will ask you to put the complaint in writing to our Senior Partner, John Hussell. He will then deal with the complaint from that point, providing you with full details of our complaints procedures. If your complaint is regarding a matter that he has conduct of, then Mrs Sally Kingsbury will deal with the complaint.

If you are not satisfied with our handling of your complaint you can ask the Legal Ombudsman at [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk) to consider the complaint. Normally, you will need to bring a complaint to the Legal Ombudsman within six months of receiving a final written response from us about your complaint.

The Legal Ombudsman may not consider a complaint about the bill if a client has applied to the court for assessment of the bill.

## CONCLUSION

We hope that the above notes and observations are helpful to you and will assist you in understanding how this matter is being dealt with. Please retain it for reference and if you have any comments or observations about our services then please do not hesitate to let us know.

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***This leaflet is intended as a guide for existing clients of Cameron Jones Hussell & Howe Ltd. It is not intended to be a detailed statement of the law nor does it obviate the need to take detailed legal advice.***