

## A guide for persons having to deal with the affairs of a relative or friend who has died

Do you know whether there is a Will or Wills? If so, do you know where the Will or Wills are kept? It is quite usual for a person's Will to have been left at his Advocate's office or to have been left for safekeeping with his bank. It is most unusual these days for a person to lodge his Will at the Greffe. Sometimes a Will can be found in the person's home with his personal papers.

If there is a Will, what kind of Will is it? In Guernsey there are two kinds of Wills. The first is called a Will of Realty and deals with real property, that is to say houses, buildings and land. The second deals with the rest of a person's estate and is called a Will of Personalty. The Will of Personalty invariably appoints an Executor, whose role is to deal with the administration of the estate of that person. He or she can direct what needs to be done and take the necessary decisions.

You will have to appoint a funeral director, who will make all of the necessary arrangements, for example, from advising the authorities, to organising newspaper publications, the funeral service and dealing with ordering any memorial stone.

Check if there are any special instructions or wishes. These may be included within the Will or in a Letter of Wishes, which would usually be kept with the Will.

Ensure that the home is secure by checking that the doors are locked and that the key or keys are held by a reliable and trustworthy person.

Cancel any milk or newspaper deliveries and be careful to collect post on a regular basis. Empty the fridge of any items that are likely to spoil quickly. It may be possible to turn off the electricity at the mains but before doing so ensure that the fridge is empty and that the freezer has also been emptied.

Ensure that pets are cared for.

Inform the relatives.

Any bills or post should be kept and handed to the person who is to take charge. Where a person has left a Will this would be the Executor. Where a person has not left a Will this would normally be the Administrator.

No personal possessions should be removed from the home before a Grant of Representation has been obtained or the need to have one has been established, although valuable items and sums of cash should be listed and taken by a responsible person to keep pending their being handed over to the person who will ultimately be responsible for dealing with this estate.

Is it necessary to obtain a Grant of Representation? This term is used to cover both the Grant of Probate (where the deceased left a Will) and Letters of Administration (where there is no Will). The first thing is to decide whether a Grant of Representation is necessary.

If there is a Will, the person named as Executor should be advised so that he or she can take control and take possession of all valuables all documents and keys.

If there is no Will, then there may be a need to obtain Letters of Administration. It may be necessary to take advice as to who is entitled to be appointed and who is the person to be put forward as the Administrator.

If for example, a spouse has died leaving the other spouse surviving, if all of their assets were in joint names it will not generally be necessary to obtain a Grant but it will merely be a case of presenting the death certificate to the various banks, insurance companies etc. who will make a note of this and then record the surviving spouse as the sole holder of the account or policies or shares as the case may be.

It may also be unnecessary to obtain a Grant if the total value of the estate is less than £10,000. Where the deceased only had one or two bank accounts and no other assets of value and the total value in the accounts is less than this amount then clearing banks and insurance companies generally have a small estates procedure which does not require the production of a Grant of Representation. This is helpful because it may save a small amount of time and will certainly save the cost of obtaining a Grant. If the deceased has left a Will but the value of the assets is low, the bank may still wish to see a copy of the Will. In circumstances where the banks agree to release the funds under a small estates procedure they will require the beneficiaries to sign an indemnity in their favour to cover them against paying out the monies to the wrong claimant.

When it is necessary to obtain a Grant there is no legal requirement to employ an Advocate. If the estate simply consists of one or two bank accounts, then the Executor or Administrator can usually deal with the matter himself.

You can make an appointment to visit the Ecclesiastical Court (tel. 721732) between 9am and 11.30am.

They will require the Will, a copy of the death certificate and the value of the estate. If they consider the estate to be complex, they may advise you to see an advocate. When the documentation is complete you will be requested to attend the Ecclesiastical Court at 9.30am on a Friday in order to take the Oath as Executor.

There is a table of set charges payable to the Registrar of the Ecclesiastical Court determined by the value of the estate. The Ecclesiastical Court will be able to advise you of these.

If there is no Will, Letters of Administration may be required. The Ecclesiastical Court can advise on the procedure and documents required. An administration bond will be required for twice the value of the estate. This bond is not registered against the property of the signatories of the Bond, but can be enforced against the signatories personally in the case of maladministration of the estate.

The Executor or Administrator is responsible for collecting all the assets, paying the debts and distributing the net assets to the beneficiaries, and must keep an account of income and payments.

Financial institutions normally require to see the original Grant of Representation and a copy of the death certificate. You should ensure that the Grant is returned to you.

### **Points to remember:**

Check that the property and contents are insured and advise the insurance company of the person's death.

Inform the Guernsey Social Security Authority ("GSSA") (pensions must be stopped, but if a single overpayment has been made, it is not normally required to be refunded).

Apply to the GSSA for a Death Grant (this is to assist with the funeral expenses).

If there is a UK DHSS Pension inform them. They will require any overpayments to be refunded.

Inform the Income Tax Authority. They normally require a statement of income for the year up to the time of death, details of income accrued during the administration of the estate and will request to be advised of the names and addresses of the beneficiaries and of details of what each has received.

### **RIDER**

This paper is intended as a general review and aide memoire. It does not create a retainer or lawyer-client relationship and does not provide comprehensive or specific legal advice concerning the matters contained within it. This paper should not be relied upon as giving or providing advice on any individual case.