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Key Considerations for Executors and Administrators

Is There a Valid Will?
Locate the original Will and any codicils if possible. The Will identifies the executors and beneficiaries and sets out how the deceased intended their estate to be distributed.
If there is no valid Will, the estate will instead be distributed according to the intestacy rules, and the person entitled to apply for Letters of Administration will depend on the deceased's family circumstances.

Who Are the Executors?
Check who is appointed under the Will and whether everyone named is willing and able to act.
If there are several executors, it can be useful to establish at an early stage who will take responsibility for dealing with the practical administration and communicating with advisers.

What Assets Did the Deceased Own?
Prepare an initial list of bank accounts, savings, investments, property, business interests, vehicles and other significant assets.
Before probate can be applied for, the estate generally needs to be valued so that the personal representatives can establish the estate's value and whether Inheritance Tax reporting is required.

What Debts and Liabilities Exist?
Make a note of mortgages, loans, credit cards, utility accounts, tax liabilities and other debts.
Personal representatives are responsible for dealing with the deceased's liabilities before distributing the remaining estate to beneficiaries.

Were Significant Lifetime Gifts Made?
Try to establish whether the deceased made substantial gifts during the years before their death.
Lifetime gifts can be relevant when calculating Inheritance Tax and preparing the appropriate estate information for HMRC.

Is Inheritance Tax Likely to Be Payable?
The tax position should be considered before applying for probate. Where a full Inheritance Tax account using form IHT400 is required, it must generally be submitted before the probate application can proceed.
Inheritance Tax is normally due by the end of the sixth month after the month in which the person died, after which HMRC can charge interest on unpaid tax.

Does the Estate Include Property?
Establish how any property is owned and obtain an appropriate date-of-death valuation.
Property may need to be transferred to a beneficiary or sold during the administration, and jointly owned property may be treated differently depending on the form of ownership.

Are There Business or Agricultural Interests?
Tell your solicitor about companies, partnerships, farms, agricultural land or other trading assets as early as possible.
These estates can require specialist valuations, consideration of available Inheritance Tax reliefs and coordination between the estate administration and the ongoing management or succession of the business.

Are There Overseas Assets or Beneficiaries?
Provide details of property, accounts or investments held outside the UK and identify any beneficiaries living overseas.
International elements can introduce additional legal, tax and administrative requirements and may affect how quickly the estate can be completed.

Is Anyone Questioning the Will or Estate?

Tell your solicitor about any disagreement between beneficiaries, concerns about the validity of the Will or potential claims against the estate before assets are distributed.

Where a probate dispute exists, different procedures and time limits may apply and our Contentious Probate and Trust Disputes team can provide specialist advice.

Do Beneficiaries Want to Change Their Inheritance?

A beneficiary may sometimes wish to redirect part or all of an inheritance, for example to another family member or into a trust. A variation can potentially be made within two years of the death and, where the relevant requirements are satisfied, can have particular Inheritance Tax or Capital Gains Tax consequences. Advice should be obtained before altering the distribution of an estate.

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