

# Role of the LEGAL PERSONAL REPRESENTATIVE



We hope that the following outline of the role and the duties of the Legal Personal Representative will be of assistance to you.

## What is a Legal Personal Representative?

A Legal Personal Representative is the person with responsibility for looking after the estate of a deceased person. In general, if there is a Will the person who deals with the estate is called an Executor. If the deceased has died without a Will the person who deals with the estate is called an Administrator. An Administrator may also be appointed if there is a Will, but the executor cannot or will not act. In many cases two people act together as Executors or Administrators. We will use the term Legal Personal Representative ("LPR") to cover these situations.

## What is the role of the Legal Personal Representative?

Your function as LPR is to administer the estate of the deceased. If there is a Will you will administer the estate in accordance with what is set out in the Will. If there is no Will, you have to administer the estate according to the rules of intestacy.

If there is a Will, your powers and duties date from the death of the deceased and the whole estate effectively passes to you to deal with. An executor appointed under a Will does not have to act and may renounce the executorship. Anyone considering renouncing should be independently legally advised. However, once you decide to take on the role of executor you cannot then renounce it at a later stage. A court order would be necessary for you to be removed once you decide to take on the role. The duties of an LPR last for life and your

obligations are ongoing. Therefore, if an asset is discovered after distribution is complete, it is the duty of the LPR to dispose of that asset according to the Will or rules of intestacy.

An LPR is not paid for acting (unless they are a professional such as an accountant or a solicitor). However, they are entitled to be reimbursed all expenses properly incurred by them out of the estate. You should keep a list of your expenses and keep receipts where possible. The position is a personal one and an LPR cannot delegate their authority, although they will generally have to employ advisers such as accountants or solicitors to assist them.

An LPR has very wide powers under general law, apart from any powers given to you under the Will. You are obliged to distribute the assets as soon as possible after the death and you generally have one year from the date of death before a beneficiary can raise an issue.

We shall be guiding and advising you on all matters in relation to the administration of the estate. We will discuss with you the tasks that we are able to undertake on your behalf. Likewise, we will instruct you fully on all those duties or tasks which you alone can perform and explain all documents and declarations which you are required to sign. The outline below provides some more detail on the duties of the LPR, which may be of assistance in understanding the role of the LPR.

## Duties of the Legal Personal Representative

### 1. Arranging the funeral

The LPR is responsible for making the funeral arrangements for the deceased. If you are not a family member, the arrangements should be made in consultation with the family members. The LPR should consult the Will to see if there are any funeral directions set out. The death should be formally registered with the HSE and the official death certificate (or interim coroner's death certificate) obtained.

### 2. Valuation and protection of assets

The LPR must ascertain the value and extent of all of the deceased assets that they owned at the date of their death. You need to go through the deceased's personal papers and make a list of the assets and provide this to your solicitor.

In general, your solicitor will then write to the various banks with a certified copy of the death certificate for details of the deceased's accounts. Once the bank is notified of the death they will freeze the account so no payments or lodgements will be permitted. If there are direct debits coming out of an account an alternative arrangement may need to be put in place.

You will need to arrange for an estate agent to value any house or land as at the date of death and provide this valuation to your solicitor. In practice the sale of assets cannot complete until after the grant issues. The LPR must ensure that the assets of the estate are properly protected, for example by making sure that any house is covered by a policy of insurance and that any jewellery is safely stored.

### 3. Ascertain all liabilities

The LPR must ascertain all outstanding debts, taxes and check that there are no claims outstanding against the estate. If the deceased had an accountant, they should be asked to assist. A copy of the undertaker's bill and any other funeral expenses should be provided to your solicitor. The only funds that a bank will release in advance of the Grant issuing are funds to pay the funeral expenses.

As part of the administration of the estate your solicitor will write to the Revenue and the Department of Social Protection to ask them if there are any outstanding liabilities or claims against the estate. There may be debts due to a nursing home or under the Fair Deal Scheme. Any outstanding tax returns must be filed to ensure the deceased's tax affairs are fully up to date.

Sometimes it may be necessary to open a bank account in the name of the LPR.

### 4. Ascertain all beneficiaries

The LPR must provide a list of all the beneficiaries and their addresses. Your solicitor will write to each beneficiary to enquire about any prior gifts and inheritances received by them and ask them to confirm their PPS number and other personal details. An application for a Grant of Representation cannot be made until all these details are received.

Before making a decision to sell any asset the LPR should discuss this with the beneficiaries concerned and take into account their wishes insofar as possible.

### 5. Statement of Affairs (Probate)

This is a detailed schedule of the assets and liabilities of the deceased as well as the beneficiaries which must be prepared. It is prepared by your solicitor using the Revenue Online Service. This is lodged in the Probate Office along with several other documents and declarations.

### 6. Extract the relevant grant and collect the assets

When all the relevant papers have been processed by the Probate Office (which can take several weeks), the Grant issues. Where there is a Will and the executor is applying, it is called a Grant of Probate. Where there is no Will and the deceased has died intestate, it is called a Grant of Letters of Administration. The LPR is then in a position to collect the deceased's assets and close the accounts. It is at this stage that assets not specifically given to named beneficiaries will be sold.

### 7. Pay the expenses and debts of the estate and make distributions

When any debts of the deceased are paid the LPR is then required to distribute the assets to those entitled, while ensuring that taxes due by the estate are paid. These include all taxes due by the deceased prior to their death and all taxes arising out of the administration of the estate itself. A receipt will be obtained from each beneficiary. Each beneficiary is responsible for their own Capital Acquisitions Tax returns (except where they are not resident in Ireland). If there is a trust the assets will be transferred to the trustees.

### 8. Prepare administration accounts

Finally, the LPR must prepare a set of administration accounts showing all monies received and all monies distributed during the administration period. Your solicitor will prepare these for you.

Many of these duties will be done by your solicitor. The above is a general outline of what is involved and is not intended to cover every situation. If you have any questions at all arising out of this or indeed if you have any queries on any matter during the course of administration, please feel free to contact us at any stage.

#### KEY CONTACT

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