

# Insolvent Estates

Our **Insolvency Practitioners** are **specialists** in dealing with insolvent estates. They can offer the speed of action and experience that are essential in these cases

# Specialist help with insolvent estates – protecting the Personal Representative

When somebody dies, a family member usually becomes a Personal Representative (PR) and will instruct a solicitor to deal with probate issues and the administration of the estate. Many estates are simple to administer but problems occur when the estate is found to be insolvent, which isn't always apparent at the start of the process. Specialist experience can be vitally important during this period.

If an estate becomes insolvent, the PR has a legal obligation to act in the best interests of the creditors of the estate, rather than the beneficiaries of the will. Debts should be paid before any legacies, otherwise the PRs may be personally liable to pay money back to the estate.

## How to protect the PR, the probate solicitor and the estate

A PR could consider applying for an Insolvency Administration order (IAO) which is effectively a Bankruptcy Order attributable to the deceased. For PRs who are not well versed in bankruptcy law, the administration of an insolvent estate would be better managed by a qualified insolvency practitioner (IP). Following an IAO, the IP would be appointed as a Trustee in Bankruptcy for the estate.

Under an IAO, the Trustee in Bankruptcy would work closely with the probate solicitor to collect the assets of the deceased Debtor; the fees of both may be paid as an expense of the insolvency and paid out before payments are made to unsecured creditors.

## Summary

PRs and their solicitors dealing with estates, particularly with mortgaged properties, should take particular care to assess the situation and monitor the solvency of the estate. Protecting the estate via an Insolvency Administration order would avoid any criticism or claims brought against the PR or advising solicitor.

## How Geoffrey Martin & Co can help

We are a firm of **specialist insolvency practitioners** who are experienced in applying for insolvency Administration Orders and working alongside Personal Representatives and probate solicitors. We can bring our expert knowledge to guide you through what can be a complicated process, especially if you don't deal with insolvent estates on a regular basis.

We are sympathetic to the situation most PRs find themselves in when dealing with an insolvent estate and the loss of a family member and in many cases where there is no obvious financial benefit to family can completely remove the administrative burden that comes with being a PR. PRs can be left safe in the knowledge that the estates can be finalised in a professional manner with no threat of recrimination back to themselves.

## Working with probate solicitors to protect the estate

The benefits of working with a specialist insolvency practitioner:

- Fully assess the viability of administering the estate including current plans to finalise.
- If insolvency is a risk, discuss and recommend a strategy that protects the actions of the PR and their advisers.
- Apply for an IAO, related procedure before other enforcement action is taken by creditors.
- Disclaiming of onerous property which has no benefit to the estate.
- Assurance and peace of mind for the PR and family members.
- Passing of culpability for administration of estate.
- Swift sanction for key estate decisions.

We are experts in dealing with Insolvent Estates. If you need help, we would be pleased to meet you on a no-obligation basis to discuss your needs in more detail.



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