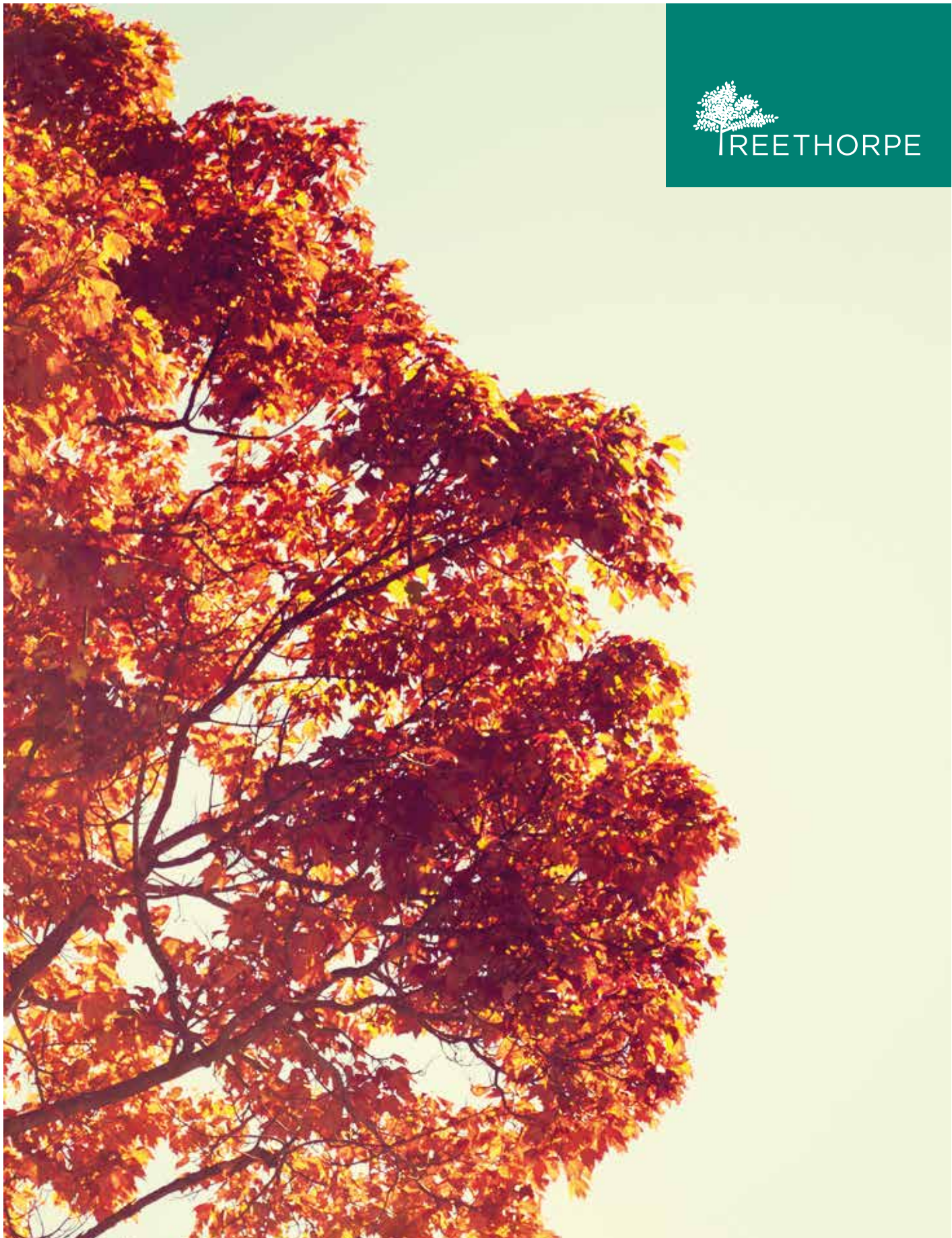




TREETHORPE



**BEING A PERSONAL  
REPRESENTATIVE**

**ASSET REUNIFICATION  
WORLDWIDE**



## ABOUT TREETHORPE

Treethorpe is a leader in the field of tracing heirs and beneficiaries to deceased estates, in discovering unclaimed or forgotten inheritances as well as other assets, in tracing the lawful owners of these assets and in helping them to claim their entitlements.

With its affiliates and associates, Treethorpe can bring together document and probate researchers, genealogists and lawyers from the UK and around the world, each of whom has particular experience in the discovery of unclaimed assets, in tracing heirs and beneficiaries, and in probate and property law.

For detailed information on Treethorpe's history, staff, services and clients as well as access to case studies, articles and opinion pieces, please visit [treethorpe.com](https://www.treethorpe.com)



## BEING A PERSONAL REPRESENTATIVE



We have prepared these notes to help you understand what is involved in being a Personal Representative and explain how our service helps to mitigate the time commitment and associated risks involved in undertaking this role.

## WHAT DOES THIS MEAN?



Personal Representatives can be either:

- **An executor** who administers an estate when there is a Will; **or**
- **An administrator** who administers an estate when there is no Will or the Will did not appoint executors.

## CONTENTS

02/03

PERSONAL REPRESENTATIVE:  
WHAT DOES THIS MEAN?

04/07

WHAT IS THE ROLE OF A  
PERSONAL REPRESENTATIVE?

08/09

FREQUENTLY ASKED  
QUESTIONS AND ANSWERS

10/11

JARGON: FURTHER  
EXPLAINED



## WHAT IS THE ROLE OF A PERSONAL REPRESENTATIVE?

A Personal Representative is the person responsible for dealing with the estate assets such as houses, possessions, shares, bank accounts etc.

Personal Representatives are expected to put the interest of all the beneficiaries before their own; acting in the interest of the estate, rather than themselves.

Personal Representatives are entitled to obtain professional assistance and to have bills related to the estate paid from the money within the estate.

The Personal Representative has the legal authority to administer the estate. They have a duty to administer the estate in accordance with the law. As the responsible person, they are ultimately liable for any mistakes made. In certain circumstances they can be held personally financially liable for any loss resulting from a breach of their duty.

### FOR EXAMPLE:

If the Personal Representative distributes the estate to the beneficiaries without first making reasonable searches and enquires in connection with identifying all beneficiaries or missing beneficiaries, the Personal Representative may be held personally liable if a missing beneficiary comes forward and requests a share of the estate to which they are entitled.

**For all matters where personal liability is a potential risk there are ways to ensure that this risk is significantly reduced or even eradicated.**

When using our services you will be supported in discharging your responsibilities as Personal Representative with minimal risk; both directly through the actions we take and through the involvement of our third party associates.



The table below demonstrates how our service encompasses all aspects of the Personal Representative's duties; from our initial genealogy research, our due diligence administration and our after sales service.

### DUTIES AND RESPONSIBILITIES OF A PERSONAL REPRESENTATIVE

- Ensuring reasonable enquiries and searches to locate any missing beneficiaries are made — including enquiries of all relevant persons associated with the estate and conducting a search of birth, death and marriage records, the electoral roll, Social Security and immigration records, to support your findings

- Identifying and collecting the deceased's assets
- Establishing what debts are due and enforceable against the estate and ensuring that they are paid in the order set out under law

- Considering insurance to cover the possibility of any missing beneficiary returning or a previously unknown missing beneficiary coming forward

- Considering insurance to cover the prospect of a Will/late Will being discovered, or of the Will being contested

- Ensuring the requisite public notifications have been published

### TREETHORPE SERVICE — WHAT OUR FEE ENSURES

- Tracing, locating and identifying all beneficiaries of the estate
- Validating the blood line of the family tree through the use of forensic genealogy and provision of official certificates
- Liaising with all identified beneficiaries regarding their entitlement

- Establishing and validating the assets and liabilities of the deceased and disclosing this information to the Personal Representative(s) — known as 'Full Disclosure'

- Arranging for a quotation for Missing Beneficiary Insurance — 'comfort' policy or 'known'. (See Jargon: Further Explained, for more information)

- Arranging for a quotation for Missing Will Insurance

- Arranging the placement of any required notifications or searches for claimants under Trustee Act 1925 s.27

Continued overleaf

## DUTIES AND RESPONSIBILITIES OF A PERSONAL REPRESENTATIVE

- Making arrangements for submission of the relevant paperwork, and any subsequent payment required, in relation to inheritance tax, income tax and capital gains tax
- Making arrangements for the relevant paperwork to be submitted to the Courts for a Grant of Probate or a Grant of Letters of Administration

- Conducting reasonable searches to establish whether or not the beneficiaries to the estate are bankrupt
- Preparing a clear and accurate account of the administration of the estate
- Distributing the deceased's estate in accordance with the terms of the will and/or the rules of intestacy; taking into account Trustees Act 1925 s.27 and Inheritance (Provision for Family and Dependents Act 1975)

## TREETHORPE SERVICE — WHAT OUR FEE ENSURES

### Ensuring our Professional Associates:

- Confirm all paperwork required by the Court is properly prepared and presented — eliminating the need for Personal Representative attendance at the Probate court
- Prepare any requisite tax submission paperwork and arrange payment through the estate where due
- Provide quotations for Missing Beneficiary and Missing Will Insurance



## TREETHORPE AFTER SALE SERVICE — PROVIDED AT NO EXTRA COST



Recovery of all assets due to, or of, the estate; including any previously unclaimed past recoverable income



Recovery of any remaining personal possessions/family/historical documents — where available



Preparing Client Statement of Account — per beneficiary and for the estate overall



Arrangement of Missing Beneficiary Insurance/Will Insurance



Arrange payment of identified liabilities in accordance with current legislation



Formal identification of all beneficiaries



Distribution of estate to all beneficiaries



## FREQUENTLY ASKED QUESTIONS AND ANSWERS

### WHAT IS THE GRANT OF REPRESENTATION?

It is a document produced by the Probate Registry at the High Court which shows all those concerned, for example banks and building societies, that money or other items previously belonging to the deceased can safely be handed over to the Personal Representative(s).

To obtain the Grant of Representation the Personal Representative(s) must complete a form of Oath by which they promise (known in legal terms as 'to swear') that they will administer the estate properly and in accordance with the law.

In making the application to the Probate Registry the Court will charge a fee which is payable from the money in the estate.

### WHY IS THE GRANT OF REPRESENTATION REQUIRED?

The assets/funds/property owned by the deceased are often held or managed by an institution, such as a bank or registrar. While most custodians will allow for lower value assets to be transferred without the necessity for obtaining a Grant of Representation, those assets over a certain value will require a higher standard of evidence to ensure that the claimant is the legally entitled party; which will have been proven by the court and evidenced by the Grant of Representation. The value threshold at which this is applied varies between institutions, typically starting at £5,000.

Treethorpe will use the best information held to determine whether or not a Grant of Representation will be required, based on our industry knowledge and experience.

### WHAT IS THE MEANING OF THE EXPRESSION 'GETTING PROBATE'?

Probate means 'proof' that a Will is valid, though given most people die without leaving a Will the term has come to be used in reference to all estates.

Where there is a Will that is proved by an Executor, then he or she will obtain a Grant of Probate.

If there is no Will and the Deceased died 'intestate', then an administrator's grant is called 'Letters of Administration'.

Both types of grant have the same purpose and effect.

### DOES A PERSONAL REPRESENTATIVE HAVE TO GO TO COURT?

The Grant of Representation is issued by the Probate Registry of the High Court. However, this does not mean that they have to appear in Court. It will involve a visit to the local Probate Registry to meet an Officer of the Court to go through the papers applying for the Grant of Representation and to make sure that everything is in order.

Personal Representatives can instruct firms to assist in the application for the Grant of Representation who will deal with all the matters arising with the Court and the Personal Representative's attendance at Court will not be required.

As part of the Treethorpe Service our Professional associates will ensure all paperwork required by the Court is properly prepared and presented — eliminating the need for Personal Representative(s) to attend.

### CAN I STOP BEING A PERSONAL REPRESENTATIVE?

Personal Representatives, whether appointed in a Will or determined by the rules of intestacy, have a choice whether or not to act. If a Personal Representative does not wish to act in that capacity, then they must make a prompt decision to that effect as there are precise rules covering the circumstances whereby a Personal Representative may choose not to act, particularly if the administration of the estate has already begun.

However, once probate is granted, the appointment and associated liabilities remain in perpetuity and cannot be renounced without Court approval.

### HOW LONG WILL THE PROCESS TAKE?

Where there is a Will, a relatively small estate, and the whereabouts of all the beneficiaries entitled to it are known, probate can be completed quite quickly.

However — it can take much longer, sometimes over a year, though on average six to nine months; where there are beneficiaries to be traced, located verified and/or there are difficulties establishing title to assets in the estate.



### MISSING BENEFICIARY INSURANCE



Missing Beneficiary Insurance is an insurance policy designed to protect and indemnify the Executor, Administrator, Trustee and the beneficiaries traced, should any beneficiary that were unknown or missing, come forward after the distribution of the estate.

Without a policy, the claimant could look to the Executor, Administrator, Trustee and/or beneficiaries for compensation.

The premium can be paid as a reasonable expense in the administration of an estate.

This insurance is usually considered only as the research and tracing of the Wills and descendants comes into its final stages and can be used for 'comfort'; where all beneficiaries are believed to have been traced and identified, or where individuals have been identified though cannot be traced.

### MISSING WILL INSURANCE



Insurance cover is available to Executors, Administrators and Personal Representatives in relation to claims from unknown beneficiaries following a Will (or a later Will to the one used in probate) being discovered or presented after distribution of an estate.

Policies can also include cover for the beneficiaries who have received the share due to the unknown beneficiaries, and can cater for comfort circumstances or where a Will is suspected to exist.

The premium can be paid as a reasonable expense in the administration of an estate.

### SEARCHES & ADVERTISEMENTS: TRUSTEE ACT 1925 S.27.



By ensuring the appropriate notices and searches for claimants have been published/undertaken and the minimum time period has elapsed, Executors, Administrators and Personal Representatives can protect themselves from possible personal liability following any claims by creditors or beneficiaries for which they received no notification.

The costs can be paid as a reasonable expense in the administration of an estate.

### SIX MONTH TIME LIMIT



The Inheritance (Provision for Family and Dependants Act) 1975 gives Personal Representatives protection provided they wait until the expiry of six months from the grant of representation before distributing the estate. Though in certain circumstances the court can permit an out-of-time application to be made beyond the usual 6 months.

Similarly, if the Personal Representative(s) wait for the same period of time before distributing the estate, they suffer no personal liability if the court then makes an order permitting an out-of-time application to have the deceased's Will rectified under s.20 of the Administration of Justice Act 1982.

However, in neither case are the successful applicants denied the right to recover assets from beneficiaries who received them from the Personal Representative(s).



## CONTACT US

### Corporate Office

9 Caxton House  
Broad Street  
Cambridge CB23 6JN

**T +44 (0) 1954 266030**

**F +44 (0) 1954 710254**

### Head Office

44 Beaufort Court  
Admirals Way  
London E14 9XL

**T +44 (0) 20 8914 8317**

**F +44 (0) 20 8914 8318**

**TREETHORPE.COM**  



**enquiries@treethorpe.com**

Treethorpe Limited is registered in England with number 617 2161, and with registered offices at 44 Beaufort Court, Admirals Way, London E14 9XL. Treethorpe Limited is registered under the Data Protection Act 1998, reference Z119381X, and is registered with the Financial Conduct Authority to provide certain regulated activities, number 535904.