

Dear Mrs Jones after reviewing the documentation provided this email will provide information regarding the status of inheritance for Betty's estate. To begin due to the status of the current will it will be classified as invalid, meaning her assets will become intestate. The reasons for this estate are due to the fact that despite knowledge of said will it did not have markings of any witnesses therefore invalidating it under section 15 Wills Act 1837. In regard to the intestacy due to the time of death being post 6 february 2020 the regulations surrounding the intestate will follow the contemporary guidelines.

In regard to intestacy post death as outlined within section 33 of the Administration of estates act 1925 all of Betty's assets will become part of a statutory trust. Now in regard to this a representative will be selected by court. Now in regard to your current situation due to section 46 of the administration of estates act 1925 the current eligible inheritors of the estate would be and in this order of priority; Bettys son Matthew, Allison her sister, Oliver her nephew, Unity will get hers in trust then finally Heather her half sister. Due to the rules of intestacy Mr Phillips is not entitled to any of Betty's estate and has no protections. However due to cohabitation he does have the option to appeal to the court for a financial reward taken from the estate. He is entitled to attempt gaining this award as he was with the deceased for 8 years, however this is entirely up to the courts discretion meaning they could deny this. Following on from this as he never married Betty through section 46 of the administration of estate act 1925 the priority falls onto Mathew as he is Betty's legitimate son. Under the Inheritance and Trustees' Powers Act 2014 Matthew will be entitled to a lump sum amount of £322,000 due to the death being after July 2023. Following that lump sum amount the residual money left will be distributed between the surviving relatives. Despite their estranged relationship as he is her blood son and there is no spouse or civil partner he is first priority.

Following on from this Allison would follow in priority along with Oliver and her niece unity. This is due to the fact that Bettys siblings and their children would come next under section 46 of the administration of estate act 1925. In regard to Betty's niece Unity due to her being currently 17 any inheritance granted to her would be held in a statutory trust as directed in section 46(1) of the administration of estate act. This means that any of the residue entitled to unity would be held by a trustee until she becomes the age of 18. Following on from this Allison is next to receive her part of the residue. This is due to the fact that Allison is Bettys step sister and according to the section 46 administration of estate act 1925, basic order of priority states that any benefit of the residue allotted to Allison would come after Bettys 'full blood' siblings and their children. Overall in regard to inheritance Matthew will be entitled to the lump sum of the inheritance, following that will be Betty's full blood sister and nephew and niece

and then after that would be Allison getting allotted amount of any residue. This order is due to the rules and provisions laid out in both the section 46 administration of estate act 1925 and the inheritance and trustees power act 2014. In regard to Mr Phillips he has the potential to be awarded some rewards by the court however as previously stated it is the court's decision.

Following on from this is the issue of the personal representative. Due to the death and lack of a will under section 33 of the administration of estates Act 1925 all of Betty's assets have become seized into a statutory trust. Due to this a personal representative will be given a grant of representation to hold all assets. In this situation as Betty's assets have become intestate the personal representative will be known as the administrator of the estate. In my personal opinion I believe that Mr Phillips would be the most appropriate individual to hold this responsibility due to the fact that unlike the other members of the family he currently has no right to any of Betty's estate. Also according to both the Non-Contentious Probate Rules 1987 and The administration of estates Act 1925 administrators can not be beneficiaries of an estate. Following on from this before any actions are made he would need to wait until he has been given the grant of representation from the courts. The reason why is that any actions taken prior to gaining the grant won't hold the same legal backing as seen in the case *Milburn-Snell and Others v Evans* (2011). In this case the administrator of the estate took legal action with the intent of protecting their estate prior to having received the grant, due to this the court of appeal struck their case out as they did not have the power to pursue it. Now in regard to the actual obligations vested in the administrator s25 administration of estates Act 1925 (as amended by section 9 administration of estates act 1971) and the Trustee Act 2000 set out the duties. Section 1 of the trustee act 2000 imposes a duty to exercise as much care and skill as reasonable in the circumstances. The main obligations are summarized typically as: to collect and safeguard the assets, to pay the debts of the deceased and to distribute the estate to the beneficiaries correctly entitled. In regard to the powers granted to said Administrators as previously stated they need to be granted authority first after section 9(1) of the administration of estate acts 1925, as amended by section 14 Law of Property (miscellaneous Provisions) Act 1994. One power invested into the administrator is the ability to collect assets as stated in section 1(1) administration of estates act 1925. This is true for land and other types of properties. However there is a limit in how far an administrator can pursue debts as seen in *Re Clough-Taylor, Coutts & Co v Banks* (2003). This case listed out the concept that an executor can't pursue claims if there is a real risk of loss and damage to the estate. Following on from this an administrator has the ability to compound liabilities or compromise claims under section 15 trustee act 1925. Following on from this under section 32(1) administration of estates act 1925 gives the administrator the ability to pay off debts using the executors estate. Overall to sum up this section I believe that Mr

Phillip would be the most applicable to become the Personal representative, the duties that come with this position is to collect and safeguard assets, to pay the debts of the deceased and to distribute the estate to the beneficiaries correctly entitled. Finally the powers you would hold are in short the ability to collect assets, compound liabilities or compromise assets, payments of debts and finally the distribution of assets.

Kind regard,

Reference list

- <https://www.casemine.com>. (2023). Coutts & Company v Banks & Ors, [2002] EWHC 2460 (Ch) | England and Wales High Court (Chancery Division), Judgment, Law, casemine.com. [online] Available at: <https://www.casemine.com/judgement/uk/5a8ff72460d03e7f57ea87ae> [Accessed 8 Nov. 2024].
- <https://www.casemine.com>. (2023). Millburn -Snell & Ots v Evans, [2012] WLR 41 | England and Wales Court of Appeal (Civil Division), Judgment, Law, casemine.com. [online] Available at: <https://www.casemine.com/judgement/uk/5a8ff71560d03e7f57ea7455> [Accessed 8 Nov. 2024].
- Legislation.gov.uk. (2014). Administration of Estates Act 1925. [online] Available at: <https://www.legislation.gov.uk/ukpga/Geo5/15-16/23/section/46>. [Accessed 8 Nov. 2024].
- Legislation.gov.uk. (2014). Administration of Estates Act 1925. [online] Available at: <https://www.legislation.gov.uk/ukpga/Geo5/15-16/23/section/46>. [Accessed 8 Nov. 2024].
- Legislation.gov.uk. (2014). Inheritance and Trustees' Powers Act 2014. [online] Available at: <https://www.legislation.gov.uk/ukpga/2014/16/contents>.
- Legislation.gov.uk. (2019). Trustee Act 2000. [online] Available at: <https://www.legislation.gov.uk/ukpga/2000/29/section/1>. [Accessed 8 Nov. 2024].
- Legislation.gov.uk. (2021). Trustee Act 2000. [online] Available at: <https://www.legislation.gov.uk/ukpga/2000/29/contents>. [Accessed 8 Nov. 2024].
- Legislation.gov.uk. (2022). Wills Act 1837. [online] Available at: <https://www.legislation.gov.uk/ukpga/Will4and1Vict/7/26/section/15>. [Accessed 8 Nov. 2024].
- Legislation.gov.uk. (2024). Administration of Estates Act 1925. [online] Available at: <https://www.legislation.gov.uk/ukpga/Geo5/15-16/23/section/25>. [Accessed 8 Nov. 2024].
- Legislation.gov.uk. (2024). Administration of Estates Act 1925. [online] Available at: <https://www.legislation.gov.uk/ukpga/Geo5/15-16/23/section/33> [Accessed 8 Nov. 2024].
- Legislation.gov.uk. (2024). Administration of Estates Act 1925. [online] Available at: <https://www.legislation.gov.uk/ukpga/Geo5/15-16/23/section/33> [Accessed 8 Nov. 2024].
- Legislation.gov.uk. (2024). Administration of Estates Act 1925. [online] Available at: <https://www.legislation.gov.uk/ukpga/Geo5/15-16/23/section/9> [Accessed 8 Nov. 2024].

- Legislation.gov.uk. (2024). Law of Property (Miscellaneous Provisions) Act 1994. [online] Available at: <https://www.legislation.gov.uk/ukpga/1994/36/section/14> [Accessed 8 Nov. 2024].
- Legislation.gov.uk. (2024). The Non-Contentious Probate Rules 1987. [online] Available at: <https://www.legislation.gov.uk/uksi/1987/2024/contents> [Accessed 8 Nov. 2024].
- Legislation.gov.uk. (2024). Trustee Act 1925. [online] Available at: <https://www.legislation.gov.uk/ukpga/Geo5/15-16/19/section/15> [Accessed 8 Nov. 2024].

Dear Ms Jones, after looking over the document given I have listed out the gifts and entitlements that I will provide to you in this email. To begin I will start with George's gift, It's an immediate vested personal property gift. This gift could have failed due to uncertainty due to its wording as it states 'my classic car' due to section 15 of the wills act 1837. This can lead to uncertainty as she owns two classic cars but used the singular 'car' in the will. This could have led to a *Boyce v Boyce* (1849) situation in which the gift failed. However due to section 21 Administration of Justice act 1892 it allows the testator to possibly establish what was intended. In this case it is lucky as Jackie told Sam which car she intended for George to inherit. Following on from this I will be looking at the issue of the attempted amendment to the will. This amendment was to up the pecuniary legacy of both Laura and Rochelle. According to section 21 wills act 1837 in order to amend a will it must be treated to the same process as creating one. Meaning that there must be clear witness signatures from witnesses and the creator. Following on from this to create a will it must be written in pen, pencil is also not allowed. Meaning that the attempted amendments are not valid, voiding the updated pecuniary legacy.

Next I will be looking at the pre £10,000 to Lisa and the £1,000 to Rochelle. These are immediate pecuniary legacy and under the inheritance act 1975 this legacy is valid. Too clear this up pecuniary legacy means money. Following on from this the freehold property windermere holiday cottage devise is also valid for felicity. In regard to this when the term 'devise' comes up it is relation to land. Following on from this specific gift is the issue arising from Oliver's agreement to Jackie. In regard to the agreement made between Oliver and Jackie, post death it no longer holds up. As it was not added into Jackie's will Oliver does not have the 'right to purchase' in regard to the windermere devise. Due to this not being part of the will and the will clearly stating the property will be going to Felicia under Administration of Estates Act 1925 the executors duty is to fulfill what is written within the will.

Moving on next is the residuary estate going to Jackies grandchildren. This part of the will is valid due to Jackies pre condition of stating what would happen if her husband were to die first. In this instance If Jackie did not put in the condition of going to the grandchildren this gift would have failed due to lapse or could have triggered section 33 of the wills act 1837. In regard to this as well the residuary estate will be a collection of all assets left over that have not been given to the other beneficiaries already. An example being the Jaguar car left over can be sold by the testator and the funds gained from that will be split between Jackie's grandchildren. Following on from this in regard to George's children the 19 year old one will be entitled to receive the residuary gift when it

is ready. However in regard to the 17 year old due to them being under 18 they are classified as a child. This means that under Section 31 and 32 of the Trustee Act 1925 the residuary will be held in a trust for them only to be released when they reach the age of 18.

Overall in regard to the validity of the will each gift is valid and will take effect when available as written. However the attempted changes due to the way in which they were implemented are invalid and have no bearing on the proceedings. The 17 year old beneficiary will obtain their gift when they become of age.

Kind regards,

Reference list

- Boyce v Boyce (1849)
- Legislation.gov.uk. (2011). Administration of Estates Act 1925. [online] Available at: <https://www.legislation.gov.uk/ukpga/Geo5/15-16/23/contents>. [Accessed 8 Nov. 2024].
- Legislation.gov.uk. (2014). Inheritance (Provision for Family and Dependents) Act 1975. [online] Available at: <https://www.legislation.gov.uk/ukpga/1975/63>. [Accessed 8 Nov. 2024].
- Legislation.gov.uk. (2014). Trustee Act 1925. [online] Available at: <https://www.legislation.gov.uk/ukpga/Geo5/15-16/19/section/31>. [Accessed 8 Nov. 2024].
- Legislation.gov.uk. (2014). Trustee Act 1925. [online] Available at: <https://www.legislation.gov.uk/ukpga/Geo5/15-16/19/section/32>. [Accessed 8 Nov. 2024].
- Legislation.gov.uk. (2022). Wills Act 1837. [online] Available at: <https://www.legislation.gov.uk/ukpga/Will4and1Vict/7/26/section/15>. [Accessed 8 Nov. 2024].
- Legislation.gov.uk. (2022). Wills Act 1837. [online] Available at: <https://www.legislation.gov.uk/ukpga/Will4and1Vict/7/26/section/21>. [Accessed 8 Nov. 2024].
- Legislation.gov.uk. (2024). Administration of Justice Act 1982. [online] Available at: <https://www.legislation.gov.uk/ukpga/1982/53/section/21>. [Accessed 8 Nov. 2024].
- Legislation.gov.uk. (2024). Wills Act 1837. [online] Available at: <https://www.legislation.gov.uk/ukpga/Will4and1Vict/7/26/section/33>. [Accessed 8 Nov. 2024].
- Wilde, D. (2020). THE THREE CERTAINTIES REQUIRED TO DECLARE A TRUST – OR IS IT FOUR? ‘DISTRIBUTIONAL CERTAINTY’. The Cambridge Law Journal, 79(2), pp.349–359.
doi:<https://doi.org/10.1017/s0008197320000264>. [Accessed 8 Nov. 2024].