



What is Probate?

CoffinMew 

What is Probate? - Dealing with affairs after death...

'Probate' is a term commonly used when talking about applying for the right to deal with a deceased person's affairs (called 'administering the estate').

A Guide to Probate

When a person dies, someone has to deal with their affairs and decide what will happen to the things they owned.

This leaflet explains what the law says about how this should happen.

What is probate?

'Probate' is a term commonly used when talking about applying for the right to deal with a deceased person's affairs (called 'administering the estate').

In practice, different terms are used, depending on whether or not the deceased person left a Will.

If the person who has died leaves a Will

If the person who has died leaves a Will, one or more 'executors' may be named in the Will to deal with the person's affairs after their death. The executors apply for a 'Grant of Probate' from the Probate Registry.

The Grant is a legal document which confirms that the executor has the authority to deal with the deceased person's assets (property, money and possessions).

The executor will have a duty to collect the assets, pay any liabilities and distribute the deceased person's estate as set out in the Will.

If the person who has died did not leave a Will

If there is no Will, close relatives of the deceased can apply to the Probate Registry to deal with the estate and they will be known as 'administrators'. In this case they apply for a 'Grant of Letters of Administration' which gives the administrators legal authority to deal with the deceased person's estate. As there is no Will, the estate will have to be administered in accordance with the rules of 'intestacy', which means that the estate will be shared between one or more of the deceased's family, depending on the value of the estate and who the surviving relatives are.

The executor or administrator can both be called a 'personal representative'.

'Grant of Representation' is a general term which includes Grants of Probate and Grants of Letters of Administration.

Is a Grant of Representation always needed?

A Grant of Representation is almost always needed when the person who dies leaves one or more of the following:

- more than £5,000 in a bank or building society account, although some may allow a higher amount;
- stocks or shares;
- certain life/term insurance policies;
- property or land held in their own name or as 'tenants in common' with someone else

When a Grant of Representation may not be needed

A Grant of Representation may not be needed where the deceased person:

- had less than £5,000 in a bank or building society account (although they may insist on seeing the Grant of Representation)
- owned everything jointly with someone else, in which case everything may pass automatically to the surviving joint owner

Probate and Inheritance Tax

A personal representative will not be granted Probate until some or all of any

Inheritance Tax that is due on the estate has been paid.

What do I do now?

Please contact us to arrange an appointment to discuss the particular circumstances. We will discuss the situation with you sympathetically and advise you how matters can be progressed.

The Process of Administering an Estate

- Information gathering and notifications
 - Collect the Deceased's papers
 - Find out if there is a Will
 - Register the death
 - Notify appropriate authorities of the death and ascertain the extent and value of the assets and liabilities
- Frozen Assets

Until Probate or Letters of Administration is granted all assets are frozen apart from joint accounts. Banks and other institutions will normally release monies to pay the Funeral account, Inheritance Tax and Probate Court Fees.
- Probate

When the information gathering is complete a

The Facts | What is Probate?

tax form and an executors/administrators oath will be prepared. Once those documents have been sworn by the executor/ administrator application can be made for the Grant of Probate / Letters of Administration and arrangements can be made to encash or transfer the Deceased's assets.

(d) Inheritance Tax

Estates which are liable for Inheritance Tax are likely to take significantly longer to administer than estates in which no Inheritance Tax is payable. In calculating what, if any, Inheritance Tax is payable, lifetime gifts may be relevant as may any interest the Deceased had in a trust or settlement.

(e) Completion of the Administration

When all assets have been realised / transferred and all debts and tax liabilities have been settled final estate accounts will be prepared and submitted to the executors/ administrators for approval. Once approved the residuary estate can be distributed.

(f) Investment Advice

The Financial Services Act defines how Solicitors can advise Executors about investments in the Estate. If beneficiaries or executors require investment advice we can recommend Independent Financial Advisors to you.

Some Technical Terms Explained

Administration Period – the period between the date of death and the estate being wound up.

Administrator – the person responsible for winding up the estate of a person who has died without a will or whose executors are unable or unwilling to act as such.

Appropriation – the transfer of an asset in full or part satisfaction of an entitlement under a Will or intestacy.

Bequest – a gift of a specific item or part of the estate.

Codicil – a legal document which amends the terms of a Will.

Contingent Gift – a gift that is dependant upon the happening of a particular event, such as a beneficiary reaching a specific age.

Estate Accounts – accounts recording the financial position at the date of death and transactions during the administration period.

Grant of Representation – the court order that authorises a person to deal with the affairs of a deceased person. This is also called a Grant of Probate where the will is proved by an executor and a Grant of Letters of Administration where there is no will or a will is proved by someone not named as an executor.

Intestacy – where a person dies without a will that disposes of all their assets.

Legacy – a gift of money.

Personal Chattels – the legal definition (from 1925) includes carriages, horses, stable furniture and effects (not used for business purposes), garden effects, domestic animals, (silver) plate, plated articles, linen, china, glass, books, pictures, prints, furniture, jewellery, articles of household or personal use or ornament, musical and scientific instruments and apparatus, wines, liquors and consumable stores, but excludes any chattels used at the date of death for business purposes, or any money and securities for money.

Personal Representative – an executor or administrator.

Power Reserved – where an executor decides not to act but reserves the right to do so later.

Renouncing Probate – where an executor signs a document at the outset declining to act.

Residuary Beneficiary – a person entitled to a share of the residuary estate.

Other Services

- Wills, including trusts for vulnerable beneficiaries, to protect assets and property interests and to save tax
- Trusts enabling the arrangement of affairs before and after death, preserving assets for the maximum benefit of the family
- Tax planning to maximise the saving of tax by Will or lifetime gifts
- Administration of Estates of the deceased under Wills or on Intestacy
- Assistance to the Elderly in the care of their affairs and finances
- Powers of Attorney for all purposes, including Lasting Powers of Attorney which facilitate administration of clients' affairs in the event of incapacity, accident or illness
- Living Wills (Advance Decisions) allowing you to express wishes for your medical treatment in the event of a life threatening accident or illness
- Will or Inheritance Disputes where it may be necessary to challenge a Will, or its administration, or to claim against an Estate where inadequate provision has been made
- Care Home advice
- Free will, LPA and deed storage



CoffinMew

1000 Lakeside
North Harbour
Portsmouth
PO6 3EN
DX: 124493 Portsmouth 9

023 9238 8021 T
023 9221 0952 F
www.coffinmew.co.uk

Kings Park House,
22 Kings Park Rd
Southampton SO15 2UF
Tel: 023 8033 4661

60 Stoke Road,
Gosport
PO12 1PA
Tel: 023 9252 3111



CoffinMew

1000 Lakeside
North Harbour
Portsmouth
PO6 3EN
DX: 124493 Portsmouth 9

023 9238 8021 T
023 9221 0952 F
www.coffinmew.co.uk
wills@coffinmew.co.uk

Kings Park House,
22 Kings Park Rd
Southampton SO15 2UF
Tel: 023 8033 4661

60 Stoke Road,
Gosport
PO12 1PA
Tel: 023 9252 3111