

Probate is a word that you don't usually come across until someone passes away.

Find out in this report what it is, how it works and why you should use a solicitor.

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Inventing Your Own Goodbye.

A Complete Guide To Organising Your Life For Your Passing.

One of the greatest gifts you can give is peace of mind.

Peace of mind for your family that they have respected your final wishes.

At a time of high emotional distress the last thing that you would want to do is cause heartbreak, anguish and tears.

And by completing this guide to your last wishes you will demonstrate your care and concern for your loved ones.

As well as celebrating your life how you would wish it to be remembered.

Probate is a word that you don't usually come across until someone passes away.

Probate basically means “the right to deal with a deceased person's estate.”

In many cases this will be an executor who has been named in a Will. But if there isn't a Will someone close to the deceased could apply to administer the estate.

Probate covers both application to administer the estate and all the official forms that give executors the right to deal with the deceased's affairs.

For immediate assistance telephone 01202 802 807.

What Happens When You Are Granted Probate?

If you are granted probate you have to keep to the wishes in the deceased's Will.

This means dealing with all of the deceased's assets, specifically the property, money and personal possessions.

The grant of probate can be used to prove that the individual has the right to do these things.

If there is no Will, (and the person dies “intestate”) then the estate is administered according to the laws of succession. In these cases, individuals who are granted letters of administration have the authority to deal with the deceased's estate.

However, these individuals are not able to simply do what they wish with the deceased's estate.

What is a Grant of Confirmation?

A grant of confirmation is the term used in Scotland. If the deceased lived in Scotland, a grant of confirmation is then applied for in relation to probate.

Is a Grant of Probate Required for All Estates?

No. It isn't necessary for all estates. If the deceased leaves less than £5,000 and all of their possessions were jointly owned with someone else (and therefore pass directly to the co-owner) then a grant of probate may not be needed.

To find out if the estate meets these requirements, the executor/administrator should write directly to each institution such as bank, building society etc and include copies of the death certificate and Will in order to get information about the deceased's assets.

If the deceased held stocks or shares, insurance policies, or property and/or land held in their name (or as tenants in common) then a grant of probate will very probably be needed.

When Is Probate Granted?

Probate isn't granted to the executor/administrator of an estate until some, and possibly all, the inheritance tax is paid on the estate. This is where a professional valuer or chartered surveyor is able to help with valuing the estate (mainly the property) to work out how much tax will be payable. A solicitor is helpful with this process.

What Happens if There Is More than One Executor?

As many as 4 named executors may apply for a grant of probate. They can work together to execute the estate. However it is often preferable if one executor applies for the grant of probate to sort out the Will on their own. It often simplifies things if it is done this way.

Who Can Help With You With Probate?

A solicitor can apply for a grant of probate on behalf of the named executor.

Many solicitors specialise in probate and their experience is invaluable. Of course, you will pay for their services. Make sure you ask about how much it is likely to cost before engaging the solicitors. (Don't go for the cheapest though, do some thorough questioning about exactly how they work so you feel comfortable with them).

When someone passes away in reality the immediate practicalities are more important than the process of applying for Probate or Letters of Administration.

What If There Is A Will?

If the person who has passed away leaves a will, it will ordinarily name one or more people to act as the executors to administer their estate.

If you are named as an executor of a will you might have to apply for a grant of probate.

A grant of probate is the official document the executors need to administer the estate. It is issued by a section of the court known as the probate registry.

And If There Is No Will?

If there is no will, the deceased has died “intestate” and the process is more complicated.

The Administration of Estates Act 1925 sets out who can act as an administrator – that is, who has the legal right to deal with the affairs of the person who has died.

The administrator is normally a close relative of the person who has died, if there is one. There could be more than one person who has an equal right to do this. Anyone who has this right can apply to the probate registry for a grant of letters of administration. This is an official document, issued by the court, which allows administrators to administer the estate.

In some instances, e.g. when the person who inherits is a child, the law says that more than one person must act as administrator.

Here are some legal terms you may read about that you might want explaining.

Who are Personal representatives (PR's)?

This means executors or administrators. If there's more than one Personal Representative, they must work together to decide matters between them. Disagreements between personal representatives can cause delays.

What is a Grant of Representation?

This includes grants of probate (when there is a Will) and Grants of Letters of Administration, (when there is no Will). Often people simply refer to Probate even if there is no will.

When a Grant of Representation is needed?

When a grant of representation isn't required.

There are two reasons why it may not be needed.

- If the deceased has left an estate worth less than £5000 in total
- If the deceased owned everything jointly with someone else

And in some financial organisations, e.g. banks and building societies, they might pay funds to a personal representative without grant of representation – it never does any harm to check!

When a grant of representation is required.

It's more common for a grant of representation to be required nowadays.

A grant of representation is required....

If the deceased left:

- more than £5000;
- stocks or shares;
- a house or land;
- certain insurance policies

How Do I Get A Grant of Representation?

There are a number of ways you can get it.

- You can apply for a grant in person at The Principal Registry (Family Division) at the London Probate Registry or a District Probate Registry in cities and many large towns.
- If you apply in person, you will have to go for an interview at the registry and fill in an application form and a tax form. There is a fee for this.
- **You can ask a solicitor to apply for the grant of representation on your behalf.**

At Solicitors In Bournemouth, here in Dorset, we have a dedicated department that specialises in Probate.

We are experts in this field, so that we can quickly and sensitively help you with the estate administration. Our role is to assist you with any probate matter. Please call me today so we can help you.

Telephone 01202 802 807

What are the Responsibilities of personal representatives?

Personal representatives are responsible correctly administering the estate.

If there is a will, the personal representative makes sure that the wishes in the Will of the deceased person are followed.

If there is no will, you have to follow the rules of intestacy (set out in the administration of Estates Act 1925).

Personal representatives are responsible for finding out if inheritance tax is due as a result of a person's death. If it is, the personal representative has to ensure that it is paid to the Inland Revenue (Capital Taxes Office).

How is Inheritance Tax calculated?

There are a number of factors which affect Inheritance Tax. These can include;

- how much the property and belongings of the dead person were worth when they died;
- the value of any gifts that they gave before they died, and to whom they gave those gifts;
- the value of certain trusts from which the dead person benefited;
- or which people benefit under the will or under the rules of intestacy (the beneficiaries).

How Long Does Grant of Probate Process Take?

It's not uncommon for the whole process to take up to 12 months. People's estates can be complicated

There are large numbers of organisations involved in the process, for example banks, building societies, insurance companies and the Inland Revenue.

An estate cannot be dealt with until every claim on it has been received.

And even then, individuals have six months from the date when probate was granted to make new claims against the estate.

Things that affect the speed of the process are:

- Were the deceased's financial affairs in order and well-documented?
- Did the deceased own a business or farm?
- What was in the Will?
- Are there any legal disputes that have arisen?
- Does inheritance tax have to be paid?
- Have Inland Revenue files been closed and income tax, benefits agencies and pensions been sorted out?
- Family arguments and disagreements between executors and personal representatives can also delay settling the estate.

How Solicitors in Bournemouth Services for Probate work for you.

When we know your circumstances, we can tell you what the costs are likely to be **before carrying out any work**.

All our work on your behalf is covered by our fixed fee guarantee with no hidden extras for your peace of mind.

1. £497 for obtaining probate
2. £1497 for obtaining probate and dealing with non-taxable estates.
3. 1.47% of gross estate for taxable estates.

It is important you work with a solicitor who is approachable and sympathetic, and whose advice you understand and trust. Please telephone me for further advice.

Telephone 01202 802 807

Or email paul@solomonslaw.co.uk

Dedicated to Your Family

Paul Solomons

PS Remember I am a member of the Society of Trust and Estate Practitioners (STEPS) and a recognised Inheritance Tax expert.

I am also a member of The Association of Contentious Trust and Probate Specialists (ACTAPS) a specialist group dealing with contentious trust and probate work.

Telephone 01202 802 807