

Probate and Estate Administration - Services, Key Stages and Timescales

Dealing with the personal affairs of someone who has died is often a mixture of complex emotions and frustration. Sorting out an estate takes time and can be highly complex.

How can we help / What services do we offer?

We can take the pressure off you by ensuring the estate is administered efficiently and with compassion, understanding and professionalism.

We are very happy to deal with the estate administration from start to finish for you. Otherwise, we can offer probate advice and assist on any particular aspect, from inheritance tax advice to help with practicalities such as recommending valuers and estate agents for selling a property.

What is probate?

There are two slightly different processes involved depending on whether or not the deceased left a Will:

1. **A Grant of Probate** is required if there is a valid Will which appoints one or more executors. These executors apply online or by post to the Probate Registry for the Grant.
2. **A Grant of Letters of Administration** is required where the person died 'intestate', which means they did not have a valid Will. Where the person died intestate, a close family member will usually apply by post to the Probate Registry to become an administrator of the estate.

However, the process involved for both executors and administrators is similar.

Probate is the process of administering a person's estate on their death. Either a Grant of Probate or Letters of Administration will usually need to be granted by the Probate Registry before this can take place. Both of these documents give one or more people legal authority to manage the deceased person's affairs, including accessing their assets, i.e., personal possessions, property, and money.

What is involved in probate?

Irrespective of whether there is a Will or not, administration of the estate (estate administration) is required.

In a nutshell, estate administration pertains to all activities relating to the valuation, collection, and distribution of the deceased's estate. This will include tax, legal and administrative activities. Due to the complex nature, it can take a very long time with many forms to be completed, chasing companies over the phone and lots of paperwork.

Many of these administrative duties within estate administration apply even if there isn't a valid Will in place and even if probate isn't required.

Administering an estate has several stages to it and varies in complexity from person to person depending on a number of factors such as the size of the deceased's estate, whether there is Inheritance Tax due, how many beneficiaries are named in the Will etc.

For non-taxable exempt estates, the Executors need to complete the probate application form PA1P/PA1A and if applying by post send this document together with an official copy of the death certificate, the original Will (and 3 copies) (if there is a Will) and any codicils and the application fee to the Probate Registry. If applying online you will be told what documents you need to submit to the Probate Registry.

For taxable estates and non-taxable estates that are not categorised as exempt from completing tax forms, the Executors must complete the relevant tax forms and send them to HMRC. This involves identifying and valuing the individual's assets to determine whether Inheritance Tax (IHT) is due. The deceased's estate may also owe other taxes, such as Income Tax or Capital Gains Tax (CGT). It is the Executor's duty to determine this. Once such forms have been submitted to HMRC (and in some instances, Inheritance Tax may need to be paid), the Executors if applying by post need to submit the probate application form PA1P/PA1A an official copy of the death certificate, the original Will (and 3 copies) and any codicils and the application fee to the Probate Registry. If applying online you will be told what documents you need to submit to the Probate Registry. After applying to the Probate Registry, the Grant of Probate will be usually issued within 20 weeks.

The Executor can then gather all the deceased's assets, which may include property, personal possessions, bank and savings accounts, shares, insurance policies and sometimes business assets.

All debts will need to be paid, i.e., utility bills, credit cards, loans, mortgages, and outstanding taxes. Assets may need to be sold, such as a house or shares.

Once this is complete, all the Beneficiaries of the Will must be located and paid any gifts or legacies due to them per the terms of the Will, or where there is no Will, according to the Laws of Intestacy.

When someone dies, it is an upsetting time for friends and family members who may feel too distressed to deal with the issues that need prompt attention. Despite having to cope with their grief, as soon as possible, the death has to be registered, the funeral arranged, government forms completed, and the Grant of Probate applied for. Here the Executor will have to collect assets, pay liabilities, complete tax returns, obtain identification of Beneficiaries and complete bankruptcy searches for Beneficiaries.

Often loved ones feel too overwhelmed to deal with such things and prefer instead to hand everything over to an experienced and professional firm who can deal with everything for them swiftly and precisely in accordance with the law whilst also putting the client's interests first.

Legal Fees and Disbursement costs for obtaining a Grant of Probate

Grant of Probate only for simple, excepted estates (estates where the value is below the inheritance tax threshold); the cost will be £1,800 (£1,500 plus £300 vat) and disbursements.

Grant of Probate only for simple, non-excepted estates (estates where the value is above the inheritance tax threshold); the charge will be £2,400 (£2,000 plus £400 vat) and disbursements.

The likely disbursements to be incurred if the deceased had a will are listed below:

Disbursements are costs related to your matter payable to third parties, which we handle on your behalf.

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| • Probate Court fee | £273.00 |
| • Statutory notice (per notice) | £200.00 |
| • Sealed copies of the Grant (Per Person) | £1.50 |
| • Land Registry Fees (per document) | £3.00 |
| • Bankruptcy Search (per person) | £2.00 |
| • Bank transfer fee (per transfer) | £40.00 |
| • VAT on bank transfer (per transfer) | £ 8.00 |

If the matter is more complex or there are unusual circumstances, then we charge purely on a time basis. The time will be dependent on what is required. It is difficult to estimate, in advance, how many hours are likely to be needed to complete the administration of an estate. In some cases, a time limit can be imposed, which can only be exceeded by the Firm with prior authorisation.

Where an estate is particularly valuable, and one we are administering, with numerous and/or complex assets and Inheritance Tax is payable, then a percentage of the gross value of the estate will be applied in addition to the hourly rate which currently ranges from £300 (£250 plus £50 vat) to £330 (£275 plus £55 vat), based on time spent. The percentage will generally vary from 1% to 2% but may, in some instances, be slightly more. The percentage and hourly rate are subject to VAT and the usual disbursements.

If there is a continuing Trust, time spent dealing with the matter will be based on an hourly rate which currently ranges from £300 (£250 plus £50 vat) to £330 (£275 plus £55 vat). However, in more significant or complex matters, a percentage charge of between 1% and 2% of the Trust assets may apply. An estimate of the likely time to be spent and costs will be given (where possible) at the outset. You will be advised and kept up to date regularly.

How long will a full estate administration take?

On average, estates are dealt with within 6-12 months. Typically, obtaining the Grant of Probate takes 8-12 weeks. Collecting assets then follows, which could be a further 6-8 weeks. Once this has been done, we can distribute assets, which generally takes 2-3 weeks. If a property in the estate is to be sold, this is part of the estate which can take the longest as it will entirely depend on the market! However, we can complete much of the rest of the estate work whilst the property is on the market or being prepared for sale.

When probate is not required

There are some occasions where a Grant of Probate may not be required. This is generally where the deceased's assets are worth £5,000 or less or where the assets were jointly owned by another person still alive. For example, if a husband and wife own their house jointly and the husband dies but is survived by his wife. In this instance, the house would automatically pass to the other joint owner by survivorship. However, there is a procedure to follow in order to do this.

The general criteria for a 'simple', straightforward estate are:

- A valid Will
- There are no more than 10 Bank or Building Society accounts, no shareholdings, stocks, bonds or portfolios or other intangible assets.
- Full details of all assets and liabilities are provided to us, including values.
- All assets are located in England and Wales. There are no assets with a complex structure for encashment or assets relevant to the estate but subject to trusts.
- There are 1-10 beneficiaries.
- There are no disputes of whatever nature (for example, issues between beneficiaries on the division of assets, problems with the interpretation of the Will, difficulties between the executors etc.) If disputes arise, this is likely to lead to an increase in costs.
- There are no claims made against the estate.

Once the Grant is obtained, further work and administration may be necessary. For guidance, the estimated total fees for the administration of a 'simple' estate is approximately 1% to 2% of the value of the assets, so for an estate worth £300,000, the fee would be approximately £3,000 to £6,000.