



Your guide to **Probate**

When a person dies, someone has to deal with their property, money and belongings. This is called 'administering the estate'.

If the person who has died leaves a will

If the person who has died (the deceased) leaves a will, it will usually name one or more people to act as the executors of the will – that is, to administer their estate.

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

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

If there is no will

If there is no will (known as dying intestate) the process can be more complicated. An application for a grant of letters of administration (an official document, issued by the court, which allows administrators to administer the estate) will need to be made.

The person to whom letters of administration is granted is known as the administrator. The administrator is the person who has the legal right to deal with the affairs of the person who has died, and is determined by a set order of priority.

The administrator will usually be a close relative of the person who has died, if there is one. There may be more than one person who has an equal right to do this. A solicitor will be able to provide you with information on the set order of priority.





Some more legal terms you may come across

Personal representatives (PRs)

This means executors if there is a valid will or administrators if there is no will.

Grants 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 just refer to probate even if there is no will.

When a grant of representation is needed

A grant of representation is not always needed, for example, if the deceased:

- has left less than £5000 in total; or
- owned everything jointly with someone else.

However, some financial organisations may require a grant before giving you access even to a small amount of money.

Usually, a grant of representation will be needed when the deceased left:

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

How to get a grant

You can ask a solicitor to apply for the grant of representation on your behalf or you can visit www.gov.uk/wills-probate-inheritance/applying-for-a-grant-of-representation for information or call the Probate and Inheritance Tax helpline on **0300 1231072** Mon-Fri, 9am-5pm.

Some more legal terms you may come across

Personal
representatives
(PRs)



Grants of
representation



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Use our Find a Solicitor website to find a Law Society accredited wills and inheritance practice near you.



Go to: www.lawsociety.org.uk/wiqs-accredited

Finding a solicitor

You might want to look for a solicitor who is a member of the Law Society's Wills and Inheritance Quality Scheme (WIQS). By choosing a member of this scheme you can be sure that your solicitor meets the high standards set by the Law Society.

You can find details about WIQS members at www.lawsociety.org.uk/wiqs-accredited or you can call **020 7320 5650**.

Responsibilities of personal representatives

Personal representatives are responsible for making sure that the estate is administered correctly. If there is a will, the personal representative must make sure that the wishes of the person who has died, as set out in their will, are followed. If there is no will, you must follow the rules of intestacy (set out in the Administration of Estates Act 1925). You can ask your solicitor to explain these.

Inheritance tax

Personal representatives are also 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 make sure that it is paid.

Whether inheritance tax needs to be paid can depend on:

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

You can find out more by looking at www.gov.uk/inheritance-tax or by asking a solicitor.

Likely timescales

Dealing with the affairs of someone who has died can take a long time. Many organisations may be involved in the process, for example, banks, building societies, insurance companies and HM Revenue & Customs.

The estate cannot be dealt with until all claims to it have been received. Individuals have six months from the date when probate was granted to make claims against the estate.

Other things that may affect the time taken are:

- whether the financial affairs of the deceased were in order;
- what the deceased owned and where it is;
- whether the deceased had an interest in a business or a farm;

- what the will or the rules of intestacy say;
- whether there are any legal disputes (claims against the estate or claims by the estate);
- whether inheritance tax needs to be paid; and
- making sure that all HM Revenue & Customs files are closed and that matters relating to income tax, benefits agencies and pensions have been sorted out.

Arguments between family members, beneficiaries or personal representatives can also delay matters.



Costs

Charges can vary between solicitors and depend on what is involved in administering the estate. It is often not possible to know immediately what may be involved and how much advice and help is needed.

Your solicitor should tell you what the costs are likely to be before carrying out any work. You can compare costs by contacting more than one solicitor. Remember that the cost of dealing with the estate is usually paid from the estate.

However, cost is not the only consideration. It is equally important to find a solicitor who is approachable and sympathetic, and whose advice you understand.





Looking for help with a legal issue?

Most of us need expert legal help at some point in our life. The law can be complicated so it is important to get the best advice you can. This free guide is part of a series looking at common legal issues that are designed to help you get the right advice. They explain the legal process and terms, how a solicitor can help, timescales and costs involved in getting advice, as well as information you may need to provide.

Our free guides cover common legal issues, including: relationship breakdown and family conflict, moving house and renting, help with a will, personal injury or claiming asylum.

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Use 'quick search' to find your nearest legal adviser who can help with your legal issue. You can also identify individuals or organisations that hold one of our accreditations to help you find legal advice quickly and confidently.

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Wills and Inheritance Quality Scheme (WIQS)

Our WIQS accreditation is awarded to those that follow best practice procedures to meet the highest standards of technical expertise and client service in providing wills and probate advice.

It is only open to law firms and other organisations that are authorised and regulated by the SRA.

Find your nearest WIQS accredited practice:
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