



WOOLLEY, BEARDSLEYS
& BOSWORTH LLP
SOLICITORS

What To Do When Someone Dies

| Your guide on our
| Probate Service



What is Probate?

When someone dies, it is difficult to know what to do first, where to turn to for help and how to understand the information you need to take in.

The word Probate causes concern and confusion for many people, but it needn't be something you have to worry about. Here is our simple guide to probate and what it means to you.

Probate is the legal process of administering someone's estate. The name derives from the Grant of Probate, which is the Court document issued to the Executors of a Will to enable them to deal with assets.

If someone dies without a Will, a different Grant is required; known as a Grant of Letters of Administration. This Grant is issued to the nearest family of the deceased, or the 'Administrators' of the estate.

The Grant of Probate and Grant of Letters of Administration are both referred to as 'Grants of Representation'.

When a person dies the assets and liabilities they own and control in their own right need to be looked after and passed on in accordance with their Will or the laws of intestacy. These could be personal possessions, bank accounts, property and land, investments, business assets and even pets.

The assets are referred to as a person's 'estate' and it is up to the Personal Representative to administer them. Jointly owned assets, pensions, trust assets and life policies often pass outside the terms of a Will or intestacy, but also require administration. This job can also fall to the Personal Representatives.

Does everyone need a Grant Of Probate?

No. You may not need probate if the deceased had jointly owned property, and only savings or premium bonds. Most banks and building societies have their own rules on whether probate is required, so you will need to contact them to find out what they will require.

What is a Personal Representative?

- » Executors and Administrators are both referred to as 'Personal Representatives'. A Personal Representative is the legal guardian of the estate.
- » All the assets and liabilities that the deceased owned and controlled in their own right pass to them.
- » This means they must first ascertain what the deceased's assets and liabilities are, before valuing (and if necessary protecting) those assets and liabilities, including tax liabilities.
- » The Personal Representative must also understand the way the Will or laws of Intestacy specify for those assets to pass, or for any liabilities to be discharged. If a property is solely owned or if any of the assets are fairly substantial, the Personal

Representative will need to apply for a Grant of Representation to administer them.

This involves the completion of Inheritance Tax (IHT) paperwork and a Probate Application Form detailing the key elements of the estate and the legal responsibilities of the Personal Representative who administers it.

Please also note that if IHT is payable, a very detailed tax return needs to be filed as part of this process.

Once the Grant is obtained, the Personal Representatives will then be able to deal with all the assets of the estate and, where appropriate, decide whether to sell or transfer the assets.

» The Personal Representative will also look to discharge any outstanding liabilities, including Income and Capital Gains liabilities assessable on the estate itself, and get into a position where they are ready to distribute the estate in accordance with the Will or the laws of Intestacy.

How Long Does Probate Take?

For estates with only one or two beneficiaries, where no taxation points arise, and especially where a Grant of Representation is not required, the process of administering an estate can take four to eight months.

For estates where a Grant of Representation is required, the estate administration is likely to take at least eight months and often more than one year if complicated taxation points arise.

Do I Need A Solicitor?

It is ultimately up to you. If you give yourself enough time, it is possible to manage probate yourself for simple estates, but for estates with any degree of complexity (or if you don't have enough time yourself) you should seek the assistance of a Solicitor or Legal Executive.

All qualified solicitors are now required to publish their prices and services for estate work, making it easier to shop around and ensure you get good value.

How We Can Help You

At Woolley, Beardsleys & Bosworth we have centuries of experience in dealing with small and large estates.

We are also part of the Chesterton House team, and can advise on Inheritance Tax planning, succession planning, investments and financial arrangements through Chesterton House Accounting Services and Chesterton House Financial Planning respectively.

Our legal, accounting and financial specialists work together to ensure you receive the highest quality advice based on your own individual requirements.

You can contact us by calling 01509 212266.

We have made every effort to ensure the information in this factsheet is correct, however you should not rely on it when making decisions, and the content should not be construed as advice. Please contact our professional team for individual guidance.

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