

estate administration

When a person dies, someone has to deal with their affairs. This is called 'administering the estate'.

If the person who has died leaves a will

If the person who has died leaves a will, it will usually name one or more people to act as the executor 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 is 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 the letters of administration is granted is known as the administrator. 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. We can provide you with information on the set order of priority.

Some more legal terms you may come across

Personal representative (PRs)

This means executors or administrators. If there is more than one personal representative they must work together to decide matters between them. Disagreements between personal representatives can cause expensive delays.

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 person who died:

- has left less than £5,000.00; 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 person who has died left:

- more than £5,000.00;
- stocks or shares;
- house or land; or
- certain insurance policies.

We can deal with the whole administration of the estate from obtaining the grant to closing the accounts, transferring assets and distributing the estate.

Responsibilities of personal representatives

Personal representatives are responsible for making sure that the estate is administered correctly. If there is a will, the personal representatives 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 (as set out in the Administration of Estates Act 1925). We can explain this to you.

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 person who has died 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 person who has died benefited; or
- which people benefit under the will or under the rules of intestacy (the beneficiaries).

We can help you deal with all aspects of Inheritance tax and completion of the relevant forms.

Likely timescales

Dealing with the affairs of someone who has died can take a long time. It is not unusual for it to take up to a year, perhaps longer if things are not straightforward. 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 person who died were in order;
- what the person who died owned and where it is;
- whether the person who died 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 pension have been sorted out.

Arguments between family members, beneficiaries, or personal representatives can also delay matters. Any disagreements must be sorted out before the affairs of the person who dies can be settled.

We can assist in any claim against the estate such as

- a dispute in respect of the will or capacity of the person who made the will;
- a claim against the estate for financial provision under the Inheritance (Provision for Family and Dependents) Act 1975.
- disputes between executors or trustees.

Costs

Charges can vary 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.

We will tell you what the costs are likely to be before carrying out any stage of the work. We are also able to provide fixed fees in certain circumstances and can also deal with the more complicated parts of dealing with the estate, such as obtaining the grant, leaving you to deal with the more straightforward matters, therefore reducing the costs.