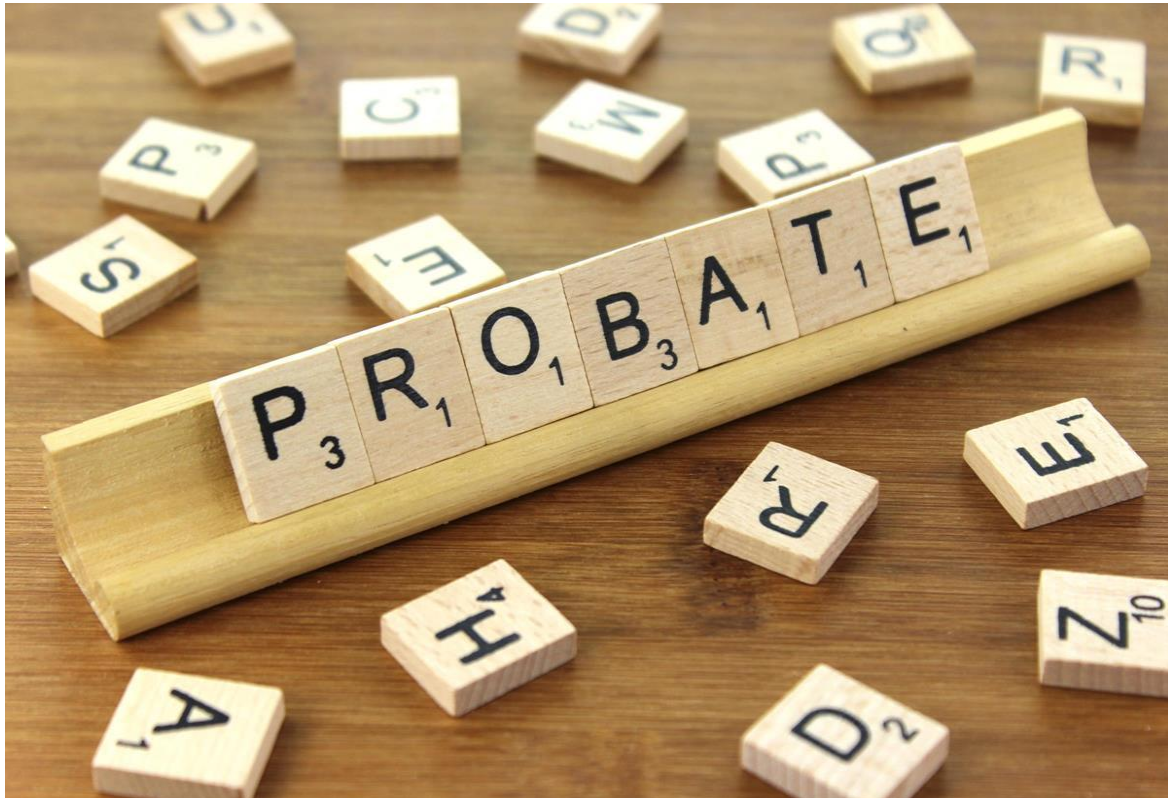


Guide to obtaining Probate in England & Wales



Important Note

This guide is intended to be used only by those applying for Probate in England & Wales. A similar online process is available in Northern Ireland, but not in Scotland (Confirmation rather than Probate).

Introduction

I am a Registered Trust & Estate Practitioner and have been advising on Wills, Trusts, Probate, and Estate Planning since 1971. As a qualified member of the Society of Trust & Estate Practitioners (STEP), I comply with their Code of Professional Conduct. I am a former Chair of STEP Yorkshire.

What is Probate?

Strictly speaking, Probate is proof of the Will and, consequently, the appointment of the Executors. However, it is commonplace for the application for any Grant of Representation to be referred to as Probate.

When someone dies Intestate – no valid Will – the Grant of Representation is known as Letters of Administration. Whilst the destiny of the net estate is set out in the relevant statutes, the Grant gives the Administrators the same powers as Executors to administer the estate.

Do I need to apply for Probate?

This is a “How long is a piece of string?” question! The Government’s website used to state a figure, so that if assets exceeded that figure an application was needed, but now it just says, “Contact the financial organisations the person who died used (for example, their bank and mortgage company) to find out if you’ll need probate to get access to their assets. Every organisation has its own rules.”

The key thing to remember is we are only talking about property, savings, investments, etc., in the sole name. Generally, items in joint names where the coholder is still alive pass by survivorship.

In my experience, banks and building societies are happy to release quite large sums on the production of the Death Certificate alone.

Can I do it?

If you have basic Internet skills and are okay with form-filling, then the answer is probably yes, especially with my help!

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Important note

The information in this guide is based on the author's understanding and interpretation of current England & Wales law as at the date of publication.

All references to a spouse include Civil Partners.

I do understand that the period following a bereavement can be distressing, surreal, and confusing, but this guide attempts to deal with the practical, not the emotional issues.



ADVISING FAMILIES ACROSS GENERATIONS

Register the death

The death must be registered within 5 days at the registry office nearest the place of death.

The medical professional certifying death will complete a *Medical Certificate of Cause of Death (MCCD)* and pass this to the relevant Registrar. Upon receipt of the MCCD, the Registrar will invite the next of kin to make an appointment to attend the Registry.

At the appointment, you will need:

- ✓ Date and place of death
- ✓ Full names (including any previous names) and address of the deceased
- ✓ Date and place of birth
- ✓ Occupation
- ✓ Marital status
- ✓ Name and address of any spouse
- ✓ Your name, address, and relationship to the deceased
- ✓ Details of any public sector pensions
- ✓ The number of copies of the Death Certificate needed (one per financial institution, generally); the fee is £12.50 per copy.

If you have never registered a death, or not for a long time, the *Tell us once* service has made the subsequent steps so much easier. The Registrar will set this in motion and explain it to you.

In addition to the Death Certificate (and copies), the Registrar will also give you a Certificate for Burial/Cremation so you can finalise the funeral arrangements.

Who to tell

If you are lucky, there will be clear and accessible records of all business and social relationships, making it is easy to know who to contact. I advocate the use of [MyWishes](#) for all the online stuff we have.

One of the key things to establish, as quickly as possible, is insurance cover for house, contents, vehicles, etc., and ensure the Personal Representatives' interest is noted by the companies.

Particularly for home and contents, if evidence of cover cannot be found, the Personal Representatives should get something arranged immediately.

Depending on the time of year, it is essential to ensure adequate frost protection is in place.

Value the estate

You need to establish the net values of the estate at the date of death. The extent to which you do this depends upon whether Inheritance Tax (IHT) is payable.

There are whole tomes written on this subject alone, but the basic rules are:

- £325,000 for a single person
- £650,000 for a couple, usually on the second death
- An additional £175,000 (or the value of the interest in a relevant property, if less) for homeowners passing that to "lineal" descendants
- Gifts made in the 7 years preceding death, not covered by an allowance or exemption, need to be brought back into account.
- Funeral costs, outstanding domestic accounts, tax owing, and other liabilities should be deducted.
- Anything left to a spouse is exempt
- Anything left to a charity is exempt

Even when there is no IHT payable, a sensible, honest estimate is still needed. At the end of the day, the Personal Representatives will have to account to the beneficiaries, so getting accurate information at this stage helps.

If there is IHT payable, then there is more work to do.

- Property. If it is going to be sold, ask the Estate Agent to give you a Probate Value; the proceeds of sale can be substituted later. If the property is going to be retained by a beneficiary (with or without a Trust), a formal valuation by a RICS qualified valuer is required.

- Personal possessions. Fans of the endless auction programmes on television will know that ordinary furniture has no real value, but collectables, valuables, etc., need to be valued. A formal valuation is needed if items are to be retained; otherwise, an auction estimate for those going to be sold will suffice, with the actual proceeds substituted later.
- Bank, Building Society, NS&I accounts. They should know the process, but it is the balance at the date of death, plus any interest accrued but unpaid. Any transactions that have gone through between the date of death and the date of notification will need to be shown as an additional asset or debt.
- Investments. Things like ISAs, Life Assurance Bonds, and related products it is a case of asking the provider for a Probate Value. With individual shares quoted on the London Stock Exchange (LSE), two prices are quoted, and the Probate Value is based on a “quarter-up” – divide the difference between the two prices by four and add the answer to the lower figure. Care needs to be taken with prices quoted “xd” (ex-dividend) on the date of death, as the dividend needs to be added to the valuation.
- Sundry items. You need to think about refunds of overpaid insurance premiums, road fund licence, credit balances on utility accounts, balances of pension and/or benefits, etc.

If you do not know the deceased well, you should consider advertising a Statutory Notice to Creditors in the London Gazette. Without it, if a creditor comes out of the woodwork later, and you have distributed the estate, you could be personally liable.

If there is no IHT to pay, from this exercise, you will need three figures for the Probate application – gross value (all assets); net value (gross less funeral costs, debts, etc); and the amount liable to IHT.

If there is IHT to pay, an IHT400 with supporting schedules must be completed and sent to HMRC. The forms can be downloaded from the HMRC website, but I suggest this is not a DIY job.

Must IHT be paid before Probate?

Yes, and interest starts accruing on anything unpaid after 6 months, at an eye-watering 4% over Bank of England base rate.

Getting on with all these formalities is the order of the day; therefore, to avoid those penal interest charges.

HMRC recently widened the scope of the IHT423 to include investment and pension providers as well as banks and building societies. Consequently, IHT can be paid by them directly to HMRC to facilitate the application for Probate.

IHT on illiquid assets, such as unsold property, can be deferred for up to 10 years on an instalment option basis. The rate of interest, however, is a deterrent.

Must all Executors apply for Probate?

No, just because someone has been named as an Executor in the Will, does not mean they have to apply. If they want nothing to do with it, they can complete form PA15 and renounce their right to apply. Alternatively, an application can be made by one or more of the Executors with “power reserved” for those who do not want to act now.

A PA16 allows a spouse to renounce as Administrator in an intestacy.



Application for Probate

For cases with a Will, so long as there are no more than four Executors, or for an Intestacy, just one Administrator, the application can be done online.

Before you start, you will need:

- Full names (including any aliases) of the deceased, address at the date of death, date of birth, and death.
- Full names, addresses, email addresses, and telephone numbers of the Executors/Administrator.
- If there is no IHT to pay, the gross, net, and taxable values.
- If there is IHT to pay, the code issued by HMRC confirming they have the IHT400.
- The number of copies of the Grant you need (one per financial institution, generally).
- A credit/debit card to pay the Probate Court Fee of £300 plus £16 for each copy of the Grant (a 967% increase from £1.50 in 2025!).

If you want my help, ask me for my questionnaire.

After the online application has been completed, the original Will (and any Codicils) needs to be sent; the address and a reference are given.

Do not attach anything to the Will with paperclips or staples. If anything has previously been attached, leave it as you found it. The Probate Registrar will ask questions if there is evidence of previous attachments in case there is a missing codicil!

In due course, currently up to 4 weeks, the Grant will be sent to the first-named Executor or Administrator.

Can a Probate application be stopped?

Yes, a Caveat can be lodged with the Probate Registry to delay or even stop the application.

The grounds for a Caveat include:

- Challenging the validity of the Will because of capacity, undue influence, inadequate understanding (knowledge and approval).
- Unsuitable appointment of Executor(s)

Whilst not a challenge to the granting of Probate, the terms of the Will can be challenged under the Inheritance (Provision for Family & Dependents) Act 1975. This must be submitted within 6 months of the issue of the Grant.

A claim is only likely to be successful if a financial dependency can be established. The legislation is there to protect genuine dependants, not reinstate upset, disinherited "black sheep."

If, as Executor, you are not familiar with the deceased's family tree or lifestyle, this may be a factor to keep in mind when making early distributions.

How much does it all cost?

In a case reported recently involving solicitors, they had quoted a fee of £10/£15,000, but when the accounts were presented, they had charged £54,000! The court thought this was excessive, but you can bet the bill never came down to anything like £15,000!

In another case with which I was involved, a straightforward estate with no IHT to pay, the solicitors had quoted £13,000. My fee was £3,000.

Solicitors are notoriously slow in dealing with Probate matters, which was evidenced in the Legal Ombudsman's 2023/24 annual report. Nearly 900 complaints were accepted regarding wills and probate. Of these, 75% were found to involve poor service with the top issues being poor communication, delays, failure to progress, and failure to advise.

I can keep costs down by not having high street premises and not doing all the work myself. You benefit from a coaching and mentoring service, based on all my years of experience. Your time is valuable, but inexpensive!

What happens after Probate?

- ❖ You must open a bank account, which is easier said than done. Following the EU's 5th Anti Money Laundering Directive, to which the UK signed up to before Brexit, many banks and building societies are reluctant to open accounts for Personal Representatives. I can arrange one for the Executors using my services.
- ❖ All assets must be collected; the financial institutions involved will have set out their requirements earlier in the process. Before this, a conversation with the beneficiaries is needed to establish whether any assets are to be retained rather than sold or encashed.
- ❖ With any sales or encashments, the tax consequences need to be considered.
- ❖ Liabilities need to be discharged.
- ❖ Tax Returns for the period up to the date of death need to be prepared and submitted, with liabilities/repayments agreed.
- ❖ Any legacies (specified cash amounts) in the Will must be paid before distributions to any other beneficiaries.
- ❖ As soon as possible, a prudent interim distribution to the main beneficiaries should be made, ensuring there is an adequate reserve for known and unknown contingencies.
- ❖ If there was IHT payable, revised figures may need to be submitted to HMRC and any additional IHT paid. However, HMRC may write to you to say something like, "If you haven't heard from us by x date, you can consider the matter closed." If the tax payable is relatively modest, it costs HMRC more to keep the file open than they might collect in additional tax from any minor updates to the figures.

When everything has been completed, a set of accounts must be prepared, showing all the incomings and outgoings.

The accounts should firstly be approved by all the Executors, and then by all the main (Residuary) beneficiaries.

Only after the accounts are approved should the final distributions be made.

Can the author help with other matters?

Personally, in conjunction with other trusted partners, there are several legal and other matters I can help with, including:

- Lasting Powers of Attorney (LPAs)
- Advance Directives
- Lifetime Trusts for gifts and loans
- Registering a Trust with HMRC
- Trust Administration
- Trust Investment
- Wills
- Deeds of Variation
- Mitigating Inheritance Tax.

The above list is not exhaustive, so if you have a question on any matter raised in this guide or any other financial matter, please just ask. Remember, the only dumb questions are the ones you do not ask when you have the chance!

Contact me for help and advice on any of these and other related services. Any initial consultation is without obligation, at my expense and your convenience.

