

Guide to Probate



'Would absolutely recommend. I only hear excellent things about Hegarty Solicitors from others as well, they genuinely put the customer first.'

Wills, Trusts and Probate Client

We provide support and advise for the steps following the loss of a loved one, making a difficult time a little easier.

 **Hegarty Solicitors**

Initial Steps

There are many practical matters to be dealt with when dealing with the death of a family member or loved one. The initial steps are to deal with the formalities of registering the death and arranging the funeral.

Administering the Estate and the Grant of Probate

After a person has died someone has to deal with their estate (which might include their house, monies and belongings) this process is known as “administering the estate”.

If the person that has died has left a valid Will, it usually names the person or people (the Executors) whom they would like to administer the estate for them. The Executors may need to apply for a Grant of Probate (which is an official document issued by a section of the court known as the probate registry). This document will confirm who is legally entitled to administer the estate. Many organisations will want to see this Grant before they will deal with an Executor.

A Grant of Probate will usually be needed if the person that has died had a house or land, some insurance policies, foreign assets, stocks or shares and more than £5000, but there is no set threshold.

Some people may feel reassured by instructing a solicitor to help them with the process of making an application for

probate which can be complicated , especially where there are many assets, a valuable estate and Inheritance Tax might be payable. There may also be the requirement to deal with H M Revenue and Customs and tax issues arising out of the terms of the deceased’s Will where a trust may have been created and to comply with strict rules concerning the registration of trusts with H M Revenue and Customs.

Applying for the Grant of Probate

The first step in making an application for a Grant of Probate is to gather in details of the value of the estate, which may include obtaining professional valuations of any house or lands, contacting banks and building societies, calculating any life time gifts or transactions to be added in for HMRC purposes and obtaining details of all debts of the estate also, such as the funeral account, credit cards, loans and utility bills.

When the executor has all this information available the next step is to prepare the Oath to be sworn by the executors to make the application for the Grant of Probate to the court. Where the estate is valuable or complex a form of account may need to be sent to HMRC giving details of the estate and calculating and paying any Inheritance Tax due before the application to the court can be made.

Once the court is happy with the application and any initial Inheritance Tax has been paid then the court will issue the document known as the Grant of

Probate to the Executors. When the Executors have this they can start to deal with the estate, and put into effect the terms of the Will of the person that has died.

You do not have to obtain professional help to deal with all or just some aspects of making an application for a Grant of Probate, but you may wish to do so to help with any liability and responsibility that might worry you otherwise.

Once an application is made to the court for a Grant of Probate the court will usually take between 2-3 weeks to deal with the application and issue the Grant to the Executors, if there are no queries or problems with the paperwork. Problems can arise if there are queries on the Will, such as different names, crossings out, illegible signatures and a wide variety of other possible issues.

If there is no Will

If the person that has died has not left a valid Will then the person who should deal with administering the estate will usually be their closest blood relative, and they will be known as the Administrator, and they will need to make an application to the court in a similar way for, what in this situation is called, a Grant of Letters of Administration to be issued.

In this case who can deal with the estate and how the estate should be distributed is governed by the Administration of Estates Act 1925 and care needs to be taken in dealing with such as estate as often families can extend farther than expected and problems tracing relatives and assets can frequently happen. Taking professional advice in this case can assist to make sure that you are protected in your role as Administrator from any financial loss that might otherwise occur.



"The staff are friendly, and highly efficient and professional in their work. I am entirely satisfied with the service I received and will happily engage them again if/when necessary."
Wills, Trusts and Probate Client



"Have used hegarty's for over forty years their service is second to none . Superb service and very professional."

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Administering the Estate

Once the Grant of Probate (or Letters of Administration) is available the job of realising the estate and putting into effect the terms of the Will (or Intestacy) can progress.

Each organisation has its own process for dealing with the account/asset/investment once the Grant is available and each will need to be contacted. Any property or land owned by the deceased will need to be considered and either sold or transferred to the beneficiary(ies).

Once all the assets have been gathered in, all liabilities, taxes, administration costs and legacies have been paid, the Executor (or Administrator) has a duty to prepare accounts to detail the financial position in the estate. These accounts should be approved by the beneficiaries receiving a share of the estate and care taken to obtain confirmation from HM Revenue and Customs that no further taxes are payable.

We at Hegarty LLP can assist with every aspect of the administration of estate and can offer a fixed fee service for dealing with the Application for the Grant of Probate alone.

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