

## Fact Sheet on Probate

When a person dies, someone has to deal with their affairs. This is called “administering the estate”. “Probate” is the name of the formal document issued by the Probate Registry after someone has died leaving a Will to show that it is valid. However, it is often a term or an expression used when referring to administering an estate.

### If the person who has died leaves a Will

If the person who has died leaves a Will, the persons responsible for administering the estate are known as “Executors”. If you are named as an Executor of the Will you may need to apply for Grant of Probate. A Grant of Probate is a formal document issued by a section of the Court known as the Probate Registry.

Many organisations such as banks, building societies and insurance companies may ask to see a copy of the Grant of Probate before they will allow the Executors access to the assets. But this is not always the case.

### If there is no Will

If the person who has died has no Will, they are often referred to as dying “Intestate”. The person(s) responsible for administering the estate are known as “Administrators” and The Administration of Estates Act 1925 sets out who has the legal right to deal with the affairs of the estate and apply to the Probate Registry for Grant of Letters of Administration. Letters of Administration is a formal document issued by the Probate Registry to allow the Administrators access to the assets and to administer the estate.

### Personal Representatives

This is a general term for Executors and Administrators. They are responsible for making sure the estate is administered correctly. If there is a Will, the executors must make sure the wishes of the person who

has died are followed in accordance with the Will. If there is no Will then they must follow the Rules of Intestacy set out in the Administration of Estates Act 1925.

### Grant of Representation

This is a general term for Grant of Probate or Grant of Letters of Administration. Often the term “Probate” is used even if there is no Will.

There are occasions when Grant of Representation is not required by banks, building societies. For instance where the estate is valued at less than £5,000 in total then this is referred to as a small estate or where there are assets held in joint names often Grant of Probate is not required. However, it is worth noting that some financial organisations agree to pay funds to personal representatives without the need for Grant of Representation. Different financial organisations have their own small estates criteria. Enquiries will be made with the relevant organisation.

However, a Grant of Representation is usually required if the person who died left an estate in excess of £5,000, has stocks or shares, owns a house or land or has certain insurance policies.

Once we have established the assets of the estate, we will advise you whether a Grant of Representation is required.

### Inheritance Tax

Personal representatives are also responsible for establishing whether Inheritance Tax is due on the estate and if so, making sure it is paid. If you instruct Parry Carver Solicitors to deal with the administration of the estate we will assess whether Inheritance Tax is payable on the estate as soon as we have established the value of the property and investments and confirmed whether the

deceased made any gifts before they died or benefited from any assets held in Trust.

### Likely timescales in administering an estate

Dealing with the administration of the estate can take some time. Length of time to conclude matters will often depend how many organisations the deceased held investments and whether tax liability is payable on the estate. Generally, we will endeavour to obtain Grant of Representation within 6 to 8 weeks of receiving your full instructions on the extent of the estate and we will endeavour to administer the estate within 2 months of receiving the Grant. However, there are a number of other factors which may affect this timescale which we outline as follows:

- Whether the financial affairs of the person who has died were in order.
- What the person who died owed and where it is.
- Whether the person who died had an interest in a business or a farm.
- Whether the Will is valid or the contents is disputed.
- What the Will or the main Rules of Intestacy say.
- Whether there are persons intending to make a claim on the estate or there are disagreements between personal representatives, beneficiaries or family members.

Such factors may affect the time taken in dealing the administration of the estate and if complications arise then we will of course advise you.

### Costs

Costs will vary depending on what is involved in administering the estate and how much you want to involve us. If you have instructed Parry Carver to deal with the administration of the estate then such costs are as outlined in the client care letter which will be sent to the Executors or the Residuary Beneficiaries. If however, you have not formally instructed us to deal with the affairs and would like a cost estimate then please contact us.

### What Parry Carver can do for you?

We can assist you to deal with the administration of the estate and you can decide to what extent you want to involve us. We can carry out all the procedures in administering the estate. However, in order for us to proceed we require from you an original death certificate and details of the estate (both assets and debts).

Please feel free to bring in all the private papers, passbooks, statements, accounts, outstanding bill or any other paperwork which you may feel may assist us in establishing the extent of the estate.

Once the extent of the estate has been established we will take the following steps:-

- Notify the beneficiaries of their interest in the estate.
- Place statutory notices, if required.
- Prepare the formal documents to apply for Grant of Representation.
- Deal with any Inheritance Tax liability
- Carry out any wishes of the deceased in accordance with the Will or Rules of Intestacy.
- Collect money and assets.
- Pay any debts or expenses.
- Finalise any Income Tax affairs.
- Make interim payments to beneficiaries on account of their entitlement.
- Deal with the sale or transfer of any property owned by the deceased.
- Prepare final estate accounts showing how the estate shall be administered.
- Make final distributions to the beneficiaries.

Should you require any further information then please do not hesitate to contact Catharine Thomas at our Wellington office on 01952 641291 or Malcolm Bayliss at our Shifnal office on 01952 460777