

## GUIDE TO PROBATE PROCEDURE

This is a guide to the process winding up the estate of someone who has died. Please note that it is intended to be a very basic guide to the main stages of the process. *and is far from being a complete overview. The stages set out below are based on how matters normally work. Please note that the stages do not always follow the same sequence.*

### Grant of Representation

Unless an estate is very small it is necessary to obtain a grant before it is possible to deal with the assets and liabilities. If someone has left a will the usual grant is a grant of probate. If there is no will it is called a grant of Letters of Administration. Fortunately, the procedure for obtaining whichever of these is necessary is very similar in both cases.

### Obtaining the Grant.

We would normally expect to obtain the appropriate grant within three months. Sometimes this can be faster than others but generally fewer assets or liabilities an estate contains the shorter time will be taken. However, please be aware that we are reliant on others to supply us with information requested as we have no control over how long they take.

### **STAGE 1:**

- 1 Instructions are given to deal with an estate. Details will be taken as to:
  - what it contains in terms of assets and liabilities.
  - How to obtain documentation showing the assets and liabilities
  - Details of executors or proposed administrators
  - Details of beneficiaries
  - Outline information as to how beneficiaries would like assets to be dealt with i.e. whether they should be sold or retained
  - Details as to whether any statutory advertisements for potential beneficiaries or creditors should be made.

### **STAGE 2**

Communication with organisations holding assets of the estate e.g. banks, investment houses etc.  
Communication with organisations to which the deceased owed money  
Communication with utility companies if the deceased owned property to that supply can still continue  
Ascertainment of total assets and total liabilities of the estate.

### **STAGE 3**

Drafting probate papers which involves oath for executors/administrators and forms to HMRC in respect of inheritance tax  
Getting them approved by the executors or administrators  
Producing final versions and having them signed or sworn where necessary  
Advising and making arrangements with executors/administrators for the payment of any inheritance tax due on application.  
Submission of papers to Probate Registry or if it is a taxable estate paying tax and forwarding forms to HMRC prior to sending to probate  
Receipt of the grant from the Probate Registry

### **STAGE 4**

Using the grant to obtain payment of amounts due to the estate  
Receipt of funds  
Payment of liabilities as soon as available funds permit.

Possible sale of assets in the estate or possible transfer of assets to beneficiaries, depending on circumstances such as the terms of the will and wishes of the beneficiaries.

Advice on possible uses of deeds of variation and similar devices.

Payment of any legacies

Possible payment of interim amounts to residuary beneficiaries

Where necessary:

Dealing with the income tax affairs of the deceased prior to death

Dealing with income tax and capital gains tax of the estate after death

Compiling estate accounts and securing their approval by the executors or administrators. Thereafter securing approval of residuary beneficiaries

Payment of residuary beneficiaries

**Please note:**

We will deal with HMRC if necessary, in respect of inheritance tax, income tax and capital gains tax due in the administration but do not normally provide a complete tax planning whilst administering an estate

Any sale of land or houses will be dealt with and charged as a separate matter.

**Fees**

We will give a detailed estimate once we are aware of the nature of the estate and can calculate the amount of work involved

As a general guideline, for estates up to £100,000.00 charges amount to 1.5% of the estate. For an estate of £100,000 this mean about £1,500.

For estates above £100,000 our charges will be the higher of £1,500 or 1.25% of the estate

Please note that all fees quoted are exclusive of VAT.

The above does not include fees payable to any one else such as Probate fees. Currently these are £155.00 with a small additional amount for extra copies where appropriate. It should be noted that there are plans afoot in the Ministry of Justice to change these fees.

IF you wish to instruct us only to obtain a grant so that you can then deal with the rest of the administration for yourself, our fees would be half of the above.

**What is not included in the fees?**

The fees quoted do not include disbursements (fees payable to third parties) including Land Registry fees, valuation fees, experts, Court Fees, Finder's Fee to locate any missing beneficiaries/ persons, Valuation fees, Experts fees or any costs should the will of the Testator/ person who made the will be contested.