

Probate & Estate Administration

Guidance Notes

ProTrust 
Estate Administration

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Introduction

What is Probate?

The general term “Probate” means the winding up of a deceased person’s estate where there is a valid Will. The Executors of the Will have legal control of that process and they can instruct us to help them carry out their legal duties.

What is Intestacy?

Where there is no valid Will, the process of administering a persons’ estate is dealt with under the laws of Intestacy. There is a set order of priority as to who has the right to administer the estate (called “Administrators” rather than Executors), and who benefits from the estate.

Estate Administration

The administration process is the collecting in or transferring of the Estate assets, paying all liabilities and any Inheritance Tax (IHT) and then distributing the net estate to the beneficiaries of the Will (or to the next of kin in a set priority order if there is no Will).

Estate Administration – a Summary

Each estate is different, but the process of administering the estate of a deceased person will usually involve the following processes:

- Obtaining the original last Will of the deceased or conducting a search to ascertain if a Will exists.
- Valuing the assets in the Estate including any jointly owned property. Valuing any debts and liabilities. Values must be specific to the date of death and they form the basis of an Inheritance Tax return that the Executors need to sign off.
- For all Estates, preparing an Inheritance Tax return or account confirming the valuation of the Estate and the overall Inheritance Tax (IHT) payable. Tax is generally payable over £325,000 of net assets at a rate of 40% subject to allowances and reliefs (see our notes on Inheritance Tax for more information). Arranging for the payment of any tax before the next stage.
- Once any IHT is paid, preparing an Oath or form for the Executors to sign to accompany the original last Will to send to the Probate Registry of the High Court.
- Applying to the Probate Registry for a document called the ‘Grant of Probate’ (or called ‘Letters of Administration’ where there is no Will) which document is a ‘ticket’ for the Executors to then collect in Estate assets, sell or transfer property and to settle Estate liabilities. Without the Grant, the Executors have little power to collect in any assets as they do not have their legal authority. Applications are generally personally made by the Executors or under a personal Attorney Grant where the attorney takes on the duties on behalf of the executors under a personal application. If a solicitor application for the Grant is required, we can arrange for this to be undertaken with a solicitor’s firm.

- Collecting in capital and cash assets, transferring or selling property, collecting in life policy entitlements, selling or transferring shares to beneficiaries.
- Settling any Estate debts, costs and expenses.
- Completing an Estate Income Tax return for the period up to the date of death (and for the period of administration if applicable).
- Preparing a set of Estate & Distribution Accounts to confirm all assets received or transferred, all liabilities paid and to show the net sums or assets due to the residuary beneficiaries.
- IHT and care fees planning, including advising on Deeds of Variation to protect the Estate passing to a spouse or beneficiary.
- Bankruptcy searches on beneficiaries (to discharge executor duties) and
- Distributing the final amounts and assets.

Estate Planning

There are a vast number of side-issues associated with each of those actions listed above, on which advice should be sought to provide support and legal expertise. Such advice can also lead to money savings for Estates and families.

Examples:

1. Decisions on selling or keeping the family home or a property that is due to be passed to children of the deceased. Capital Gains Tax can be mitigated by advice on how to structure the ownership held by beneficiaries to maximise all allowances.
2. Arrangements for the family home, in particular the best structure for a child to buy out the share of their sibling.
3. Protecting assets passing to the main beneficiary(ies). Inheritance Tax, care fees and protection from insolvency and divorce might be mitigated by the preparation of legal devices such as a Deed of Variation which varies the terms of the Will to protect the assets passing to beneficiaries.
4. Advice for beneficiaries who receive assets to then protect those via an amended Will to maybe include flexible Trusts.
5. Financial advice regarding retaining assets, cashing them in or splitting them between beneficiaries.
6. Valuing assets for Inheritance Tax purposes.

Costs

Every Estate and circumstance is different to the next. Families often prefer our time and advice to be charged according to what work and time is spent, rather than a fixed percentage of the value of the Estate. Most of our clients often see this as the best and fairest method as we are paid for what we undertake. Alternatively, clients can prefer a fixed cost so that there is certainty of cost.

We will aim to set out both options and agree to whatever approach is the best for you and your family. Whichever approach is used, our costs are almost always paid from the Estate at the conclusion of our work or the administration. All costs/work undertaken is itemised so the instructing Executors can have the ability to check the time spent and costs incurred before approving accounts.

Likewise, costs are tailored to the circumstances or to what is required. For example, if the Executors have obtained the Estate valuations and where it is clear there is no IHT to be paid due to the small size of the estate, we could undertake to assist in the preparation of the IHT return and assist executors with preparation of their Probate application for a reduced fixed fee.

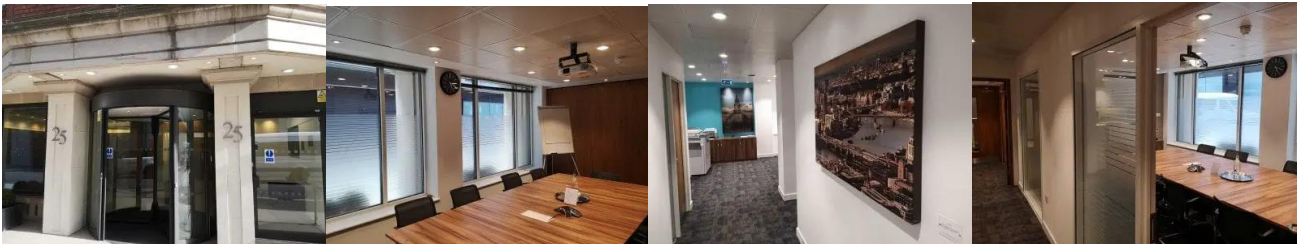
Our Experience & Expertise

We people have over 25 years experience of conducting administration of probate and estates from the outset. We have helped manage estates of all 'shapes and sizes' and have all necessary expertise and experience to make the process as smooth an efficient for you.

Expertise can be a valuable asset for families in dealing with Estate administration, particularly in the ever-changing environment of Inheritance Tax planning.

Locations and Client Meetings

Although our main offices are London-based we also have a local office in the Chilterns. However, we most often visit our clients at their home for ease of convenience for them. For meetings, we have all up to date methods to adapt to your requirements. During Covid lockdown periods, Zoom (or video-call) meetings have been a useful way of meeting the challenges. This ensures face-to-face communication whilst being able to share documents efficiently. Nevertheless, we look forward to the time when full normality is resumed.



London

Meetings can be at our main office at 25 North Row, Marble Arch, London W1K 6DJ. If you live in London, we can also visit you at home. We can see you at your workplace or other location. We have access to meeting rooms within a large number of other locations within the London area.

Chilterns

For people who are resident or working within the Chilterns, we generally would visit those people at their home or place of business. Alternatively, we have convenient meeting room facilities at Beaconsfield, Gerrards Cross, High Wycombe, Reading and Aylesbury and can arrange meetings there.

Contact Us

Please contact us for an initial no-charge, no-obligation face to face meeting or zoom call/discussion on:

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