WEALTH OF ADVICE

PROBATE EXPLAINED

A Wealth of Advice Guide

- WEALTH OF -
ADVICE GUARANTEE
NO NONSENSE
RECOMMENDABLE FINANCIAL ADVICE
SINCE 2011
-

IMPORTANT INFORMATION.

We have written this guide to help you understand more about probate and it is not personal advice.

The information in this guide is correct as of April 2026. UK tax rules can change at any time and its impact depends on your circumstances.

We are Wealth of Advice, authorised and regulated by the Financial Conduct Authority, reference number 563909.

ENQUIRIES@WEALTHOFADVICE.CO.UK

WWW.WEALTHOFADVICE.CO.UK

0191 384 1008

CONTENTS.

Explaining the Jargon 04

When is Probate Required? 04

The Probate Process 05

Costs Involved in Probate 05

How Long Does Probate Take? 05

Probate Without a Will (Intestate Probate) 06

Key Responsibilities of the Executor 07

Common Probate Issues 07

- WEALTH OF -
ADVICE GUARANTEE
Nº NONSENSE
RECOMMENDABLE FINANCIAL ADVICE
SINCE 2011

EXPLAINING THE JARGON.

Before we get into the detail of this guide, we'll break down the meaning of a few relevant key terms.

PROBATE
Probate is the name of the legal process where a deceased person's Will is validated and their estate is settled. It involves proving the Will's authenticity, appointing an executor to manage the estate, paying outstanding debts / taxes owed and distributing assets to beneficiaries.

EXECUTOR
An executor is legally responsible for carrying out the instructions in the person's Will and handling their estate.

INTESTACY / INTESTATE
Intestacy refers to the state of dying without a valid Will, meaning the deceased's estate is distributed according to statutory rules rather than their wishes.

FIDUCIARY
A fiduciary is someone who manages money or property for someone else. When you're named a fiduciary and accept the role, you must manage the person's money and property for their benefit, not yours, by law.

BENEFICIARY
In the context of a Will, a beneficiary is someone who is named to receive a gift, inheritance, or share of the deceased person's estate.

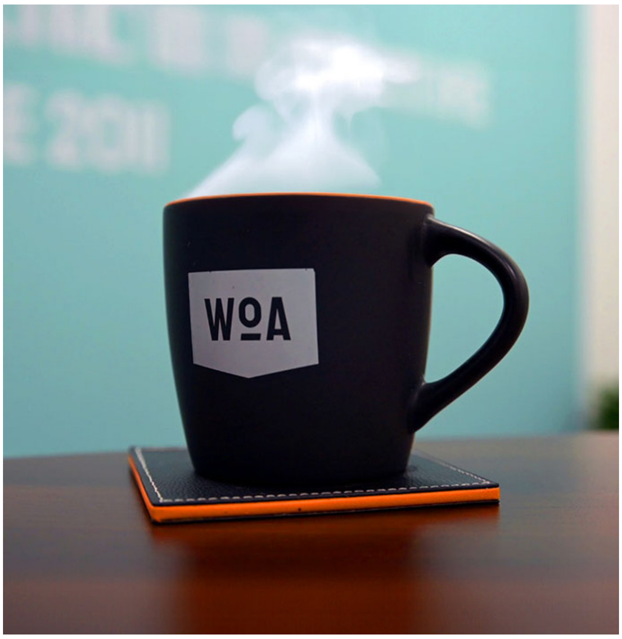
ESTATE
An estate is made up of a person's assets, including property, investments, and other valuables, as well as any debts or liabilities.

WHEN IS PROBATE REQUIRED?

Probate is typically required when a person has passed away with assets in their name, and the value of the estate exceeds a certain threshold (usually £5,000).

If the person has a valid Will, probate is required to give the executor authority to administer the estate. If the person died without a Will (intestate), the court appoints an administrator to manage the estate.

The named executor is not required to personally apply for probate and is entitled to use the services of a qualified solicitor or probate practitioner which would incur additional fees.



THE PROBATE PROCESS.

STEP 1

The executor will submit the deceased person's Will and death certificate to the court. A petition for probate will be filed and the court will review these documents.

STEP 2

The executor will gather full details on the deceased's assets, liabilities and insurance policies. Assets need to be appraised and valued to determine their worth.

STEP 3

Inheritance tax must be calculated and paid. This can be done in collaboration with a financial planner. An IHT400 form will be used to pay any tax due (if any arises).

STEP 4

The executor will apply for a Grant of Probate from a Probate Registry. This will give the executor the legal right to administer the estate.

STEP 5

Outstanding debts must be settled prior to distributing the estate.

STEP 6

The remaining estate can be distributed to beneficiaries.

STEP 7

The estate can then be closed following a final report to the court.

COSTS INVOLVED.

COURT FEES

The application fee for a Grant of Probate is typically £237 for estates worth over £5,000. There is no fee for estates under £5,000.

EXECUTOR FEES

Executors are not automatically entitled to compensation, but they can claim a fee for their time if stipulated in the Will or agreed upon by the beneficiaries.

SOLICITOR FEES

If a solicitor is required for assistance with probate, the fees may be hourly or fixed. Solicitors fees can range from £1,500 to £3,000 for simple estates, but complex estates can incur higher fees.

OTHER COSTS

Additional costs can include property valuations, inheritance tax (if applicable), and fees for handling investments or bank accounts.

HOW LONG DOES PROBATE TAKE?

Probate in the UK typically takes between 6-12 months, depending on the complexity of the estate. Delays can occur due to inheritance tax issues, disputes among beneficiaries, or if the estate involves foreign assets.

IS THERE A SURVIVING SPOUSE?

YES → Does the deceased have any children?

- **YES** → Spouse gets personal chattels, the sum of £322,000 (interest is payable on this sum at the Bank of England rate as at the date of death) and 1/2 residue. Children get the remaining 1/2 residue.
- **NO** → **SPOUSE GETS ALL**

NO → Does the deceased have any children?

- **YES** → Children get equal share
- **NO** → Does the deceased have any parents?
  - **YES** → Parents get equal share
  - **NO** → Does the deceased have any brothers or sisters of the whole blood?
    - **YES** → Brothers and sisters of the whole blood get equal share.
    - **NO** → Does the deceased have any brothers or sisters of the half blood?
      - **YES** → Brothers and sisters of the half blood get equal share.
      - **NO** → Does the deceased have any grandparents?
        - **YES** → Grandparents get equal share
        - **NO** → Does the deceased have any aunts or uncles of the whole blood?
          - **YES** → Aunts and uncles of the whole blood get equal share.
          - **NO** → Does the deceased have any aunts or uncles of the half blood?
            - **YES** → Aunts and uncles of the half blood get equal share.
            - **NO** → **CROWN GETS ALL**

PROBATE WITHOUT A WILL.

RULES OF INTESTACY

If you are a resident of England and Wales and die without having made a legally valid Will or a Will that has partially failed in some way, your estate becomes subject to the Rules of Intestacy.

The Rules of Intestacy determine how your estate is to be distributed after the payment of all your debts and liabilities.

If someone dies intestate, the court will appoint an administrator to manage the estate. The state's intestate succession laws dictate how assets are distributed – usually, the surviving spouse and children will inherit the estate.

You can see the rules of intestacy in this flowchart, but here are a few additional things to note:

1. Step relations have no entitlement.
2. These rules are effective for deaths on or after 6 February 2020.
3. The rules of intestacy do not recognise 'unmarried partners' and therefore no provision is made for them.

KEY RESPONSIBILITIES OF THE EXECUTOR.

As an executor, there are several key responsibilities that fall to you. An administrator's duties are similar to an executor as you'll see below, but they follow state law instead of the instructions in a Will.

DUTY OF CARE

The executor or administrator must act in the best interest of the estate and beneficiaries, ensuring assets are properly managed and distributed.

FIDUCIARY DUTY

Executors and administrators have a fiduciary duty, meaning they must act honestly and avoid any conflicts of interest.

RECORD-KEEPING

Executors should maintain detailed records of all estate transactions, including asset inventories, payments, and distributions.

COMMUNICATION

Executors and administrators should communicate regularly with beneficiaries to update them on the progress of probate.

COMMON PROBATE ISSUES.

Below are some of the more common issues with probate:

CHALLENGES TO THE WILL

A Will may be contested by family members of beneficiaries. Common reasons for contesting a Will include claims of undue influence, lack of mental capacity, or failure to follow legal formalities.

INTESTATE SUCCESSION

If there is no Will, the estate is distributed under the laws of intestacy. This means that only specific family members are entitled to inherit based on their relationship to the deceased.

DELAY IN PROBATE

Probate can take several months or longer, particularly if there are complex assets, disputes, or the inheritance tax return requires additional attention.

OUT-OF-COUNTRY ASSETS

If the deceased owned assets outside the UK, additional legal steps may be needed in those countries, and probate may need to be initiated there as well.

TALK TO US AT
WEALTH OF ADVICE

ENQUIRIES@WEALTHOFADVICE.CO.UK
WWW.WEALTHOFADVICE.CO.UK
0191 384 1008