

The Essential Probate Checklist



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DIY
PROBATE
PACK



Introduction

Before I share with you some vital information about probate, and your probate checklist, please allow me to introduce myself.

My name is Philip Weston & I'm the DIY Probate Expert, founder and owner of Berkeley Weston Ltd Legal Services. In the last 12 months I have helped 3,615 consumers carry out a DIY Probate –and by doing so saved them an estimated £10,122,000 in legal fees.

That's over £10 MILLION that has been inherited by family members rather than ending up in the hands of fat cat lawyers. I hope that I can help you too, so let's take a look in a bit more detail about the steps involved in the probate process.



What is “Probate”?

A ‘Grant of Probate’ is the official authority to deal with the deceased’s estate, issued in the form of an official legal document. Probate is granted by the Probate Registry, which is a part of the High Court.

Probate is also used as a general term to describe legal processes involved after a person has died. This involves dealing with a deceased person’s finances, property, general assets and debts (together these form the deceased’s ‘estate’), and ensuring the inheritance money ends up in the right hands.

Why is Probate needed?

Probate is required to gain legal authority to handle a deceased person’s assets, such as bank accounts, investments, property and so on.

These assets are ‘frozen’ after a death until probate is granted.

The responsibility of obtaining probate and handling the deceased person’s estate rests with the Executor of the Will.

The Executor(s) can choose to deal with probate personally (DIY Probate) or appoint a legal representative/solicitor

Organisations such as banks need to see the Grant of Probate before they will release the deceased person’s money to the Executor(s).

Probate gives the Executor(s) the legal authority to handle the deceased person’s estate and put into effect the terms of the Will. Think of it then as the ‘passport’ the Executor(s) need to handle the deceased person’s finances and other assets.

When Probate may not be required

There are some instances when a person dies and Probate is not required to deal with their estate:

1. Estates worth less than £5,000

A financial institution such as a bank, building society etc. is not permitted to insist on probate being produced to release funds they are holding where the estate is less than £5,000 in value.

In practice, most financial institutions use their own powers of discretion if the amount involved is less than £20,000 in value. If this is the case, the financial institution may not require probate to close the account(s), and may simply need their own account closure form completing.

Each individual financial company will tell you whether they need probate, after you have formally notified them of the death in writing (see section VI).

2. Assets owned jointly

Probate is not normally required to deal with assets owned jointly, e.g. a joint bank account.

Where this is the case, upon the death of one of the joint owners, the asset automatically becomes the property of the surviving joint owner(s) –even if the Will states otherwise.

3. Assets that do not form part of the estate

Probate is not required to deal with any assets that do not form part of the deceased's estate. An example of this would be 'death in service' benefit from a pension scheme. The relevant organisation (in this example the deceased's employer) will confirm whether this is the case.

Now that you know a little more about probate, let's move onto the probate checklist.

Probate Checklist –The Individual Steps

1. Obtain the original Will and identify the Executor(s).

It is essential the original Will is located as it is almost impossible to get probate with just a copy. The Executor(s) of the Will should be identified as soon as possible as it is their responsibility to handle probate.

2. Notify interested parties of the deceased's death

e.g. employer, social services, financial institutions, utility companies and insurance companies. This should be done in writing, enclosing an official copy of the death certificate, as soon as possible after the death has occurred.

3. Value the deceased person's estate.

Assets owned by the deceased person solely in his/her sole name and assets owned jointly with someone else need to be valued and recorded.

4. Complete the inheritance tax paperwork and pay any tax due.

It is a mandatory requirement to complete an inheritance tax return before probate can be issued, even if the estate is of a modest size and well below the inheritance tax threshold (currently £325,000).

5. Complete the probate application paperwork.

Once the estate has been valued and the correct inheritance tax return completed, finalise Probate Application Form PA1 and any accompanying documents.

6. Send the probate application paperwork to the Probate Registry.

To include the Probate Application Form, the original Will, two A4 photocopies of the original Will, a cheque for the correct probate fee, an official copy of the death certificate and the correct inheritance tax paperwork.

Once probate has been granted the executor of the Will needs to complete the following tasks to finalise the estate:

7. Check the Grant of Probate has been issued correctly.

Any errors, such as misspelled names or addresses, need to be rectified immediately

8. Register the Grant of Probate with interested parties.

A court sealed copy of the Grant of Probate should be sent with a covering letter to all interested parties.

9. Close bank accounts, sell investments and transfer or sell ownership of the deceased's property.

The closure forms will be sent to the Executor by the financial organisation concerned. A solicitor or licensed conveyancer should be used to handle property ownership matters.

10. Settle debts, liabilities and expenses.

Priority creditors need paying first. A letter or notice should be obtained from the creditor confirming that the debt has been settled in full and final satisfaction.

11. Finalise the deceased's Income Tax and Capital Gains Tax positions.

According to the deceased person's own personal tax situation. Check there are no outstanding returns from previous tax years.

12. Notify the beneficiaries.

Provide a copy of the Grant of Probate and Will and tell them when they can expect to receive their inheritance.

13. Pay pecuniary gifts and legacies.

For example a gift of a specified amount of money to a named individual which does not form part of the 'residuary estate'.

14. Obtain inheritance tax clearance from HMRC.

Required where an inheritance tax account (IHT400) has been submitted to HMRC.

15. Prepare the estate accounts.

A formal record of estate money that has been handled by the Executor which is forwarded to the residuary beneficiaries.

16. Distribute the residuary estate.

Payment of the inheritance money to the residuary beneficiaries in accordance with the Will.

Your Next Steps

If you are an executor of the Will and need to obtain probate these are your 3 choices how to proceed:

- 1. 'Do it Yourself' with no help or support .**
- 2. Assisted Do it Yourself with help and support.**
- 3. Fully Managed Probate service.**

I will send you an email tomorrow describing the pros and cons of the above options to help you make an informed choice how to proceed with your probate.

Make sure you do not miss it.

In the meantime, if you have any questions please call **0116 2795044** or email support@berkeleyweston.co.uk and I will be happy to help.

Phil Weston

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