

HOW TO APPLY FOR PROBATE

A Simple Guide to obtaining Probate
and Administering an Estate

Time-tested, proven steps to
achieve a quick, stress-free
and inexpensive probate outcome

BY PHIL WESTON

Probate Expert

What readers are saying about Phil Weston's Probate Guides

"Hi Phil,

My mother sadly passed away on 9 November, leaving me as the sole beneficiary to the residue of her estate. As if that wasn't enough of a shock, it came to light that the firm of solicitors she had named as executors had been closed down by the Solicitors Regulation Authority, leaving it my responsibility to obtain probate & administer the estate!

My first thought was to use a legal firm to handle it, but, having been quoted over £8,000 for the privilege, I was advised by a friend to do it myself - this seemed a rather daunting prospect initially, as I have never dealt with anything like this before & was not even familiar with my mother's affairs... however, I chanced across your probate book and decided it was worth a try!! What a great decision that proved to be!! Your step by step guide has been invaluable and, less than 3 months down the line, the Probate process is complete.

And now I can proceed to administer the estate with your equally helpful pack, which was all included in the one package - Awesome, thank you!! And, and it's a big 'and', I can ensure that every one of her belongings can either be sold for best profit or passed to someone they mean something to; how many solicitors can claim that?

I would never hesitate to recommend your guide to anyone attempting to take on Probate by themselves; you have made one small person feel very big indeed - you have made a learning curve more like a fun slide, and how I laugh in the face of solicitors in other ways too now!!

Thank you, thank you, thank you!!"

Ros Hamilton

"Dear Phil

Thank you for your recent e-mail and your useful tips to help me through the probate process. I am pleased to inform you that we received the Grant of Representation yesterday 17 September, just 34 days after obtaining your application pack on 14 August. I found your pack and e-mails, with useful tips, extremely helpful. I have never dealt with this before and your pack provided all the documents, guidance notes, and contact details that I needed to complete the Application Form.

Thank you for your help and guidance with the probate process. Kind regards"

Gordon McShannon

"Hi Phil. I Just got the grant of probate through. Just wanted to say how easy and stress free the process was. We were quoted £5,500 by Lloyds bank for them to do the probate so your probate pack saved us loads of money and time."

Hayley Cordiner

"Hi Phil,

Just a brief email to say thank-you for your assistance with my father's probate.

When I downloaded your probate guide, everything became much clearer. I have just come back from the probate registry, having sworn the oath etc, and everything has gone smoothly thanks to your probate tips. I would definitely recommend your services to anyone wishing to handle a probate application without using a solicitor. Thanks once again"

Denis Westmoreland

"Dear Phil,

Thank you for your probate book. You promised it would be hassle free and it has been - totally recommend you to anyone out there needing your skills re probate. Thank you once again - I feel very lucky to have 'found' you online. Kind regards"

Carolann Winter

"Hello Phil

I found the pack a huge help with the probate process, my father was a frugal man and would have turned in his grave if he thought that solicitors would get their hands on

£8,000 of his money for, in effect, doing something that I could complete with time and a lot of help from the guide. I have recommended it to a friend who has recently lost her father, it was an enormous help to me and a heartfelt thank you. Kind Regards"

Stuart Hill

"Hi Phil

Just to let you know I obtained probate last week and finally I am able to start to tie up the estate. There were no glitches with the inheritance tax and they seem to have taken the money without question. Many thanks for your help and your excellent probate guide. Kind regards."

Lou Back

"Dear Phil,

I just wanted to drop you a line to say how invaluable your Probate Guide has been. I have really appreciated the way everything was laid out so clearly step by step, enabling a non-lawyer like myself to easily follow the process.

I'm sure my late father would have also been happy that part of his legacy was not squandered on a four figure solicitor's bill. I wouldn't hesitate to recommend your services in future to anyone considering tackling the issue of Probate.

Sincere thanks for all your help at this difficult time. Kindest regards"

Darren Robinson

"I was looking online to see if I could find any kind of help or advice and I

came across your website. I received your guide which was delivered very quickly and set to work discovering what I needed to do.

I cannot tell you what a relief it was to read your uncomplicated explanations. Of particular help to me was the list showing the order in which to do things. Having the templates provided was the greatest help when communicating with the relevant organisations.

A highly professional, outstandingly helpful guide, which gave me confidence to do something I was very unsure of at a highly emotional time. Thank you so much. I would have no hesitation in recommending your website and services to others.

My brother's estate is now completed. Thank you again. Please feel free to post any of my comments on your website."

Julia Ingham

"Dear Mr Weston. Thank you very much for your assistance in dealing with probate for my late wife's affairs. This was completed last Friday. Your help I found very comforting when it came to dealing with the paperwork, which I found most difficult at the time. But we all have to move on. So once again thank you for taking the weight off my shoulders and help in dealing with the necessary formalities. Kind regards. "

Gerald Hardiman

How To Apply For Probate

PHIL WESTON

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Specific issues may arise which are outside the scope of this guide. The information in this guide is for general guidance only and should not be considered to be full or comprehensive advice in relation to the administration of estates. Reliance on the guide is entirely at the reader's own risk. The author accepts no responsibility for any errors or omissions. The author does not accept responsibility for loss or risk personal or otherwise which may arise directly or indirectly occasioned to any person acting, or failing to act, as a result of the content of this book. All financial figures and information are believed to be correct as of November 2024.

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Foreword

The experience of the author is as a probate practitioner and has helped over 30,000 UK consumers obtain probate.

This book enables anyone in England and Wales to obtain probate themselves without handing over responsibility to a solicitor or probate company, achieving the satisfaction of carrying out the final wishes of a loved one.

The author is the owner and founder of Berkeley Weston Ltd. This company provides assisted probate support services for people who want to finalise the affairs of a loved one.

This book will give the reader the knowledge and confidence to obtain probate and carry out the duties as the Executor of a 'straightforward' estate in England and Wales. It isn't intended to assist with more complex scenarios, for example dealing with business interests or foreign grants of probate.

Probate can be made to appear daunting by lawyers pressurising executors of the Will to spend thousands of pounds on probate legal fees. But, as this book proves, it is easy to avoid these expensive and unnecessary fees by completing a "Do it Yourself" probate.

Solicitor's fees for dealing with probate and administering an estate range from £4,000 for a very small estate to £20,000 or more.

Recent figures from the Probate Service reveals that over half (56%) of probate applications are now dealt with by individuals completing a 'DIY' probate, rather than through a solicitor.

The goal of this book is directed towards assisting Executors of a Will with the easiest, quickest and lowest cost method of obtaining probate.

As of this edition, the number of probates that have been obtained by using the author's books is over 30,000.

Prices and fees quoted in this book may be increased without notice by the Courts Service and other bodies, and should only be used as a guide.

Part One – The steps required to obtain probate

A BRIEF INTRODUCTION TO PROBATE

There are a number of legal and financial duties to complete when a person dies. These tasks are collectively called ‘administering an estate’ and one of the requirements is to obtain ‘probate’.

Obtaining probate is the responsibility of the Executor(s) of the Will, or the next of kin if there is no Will. The Executor(s) do not have to use a solicitor to obtain probate.

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.

This is what a grant of probate looks like:

High Court of Justice England and Wales
Newcastle District Probate Registry
Newcastle DPR
No 1 Waterloo Square
Newcastle-Upon-Tyne
NE1 4DR
0191 211 2170

Grant of Probate

Case Reference: [redacted]
Date of Issue: 18th September 2019

[redacted] of [redacted]
Died on [redacted] domiciled in [redacted]

The Last Will and Testament of [redacted] (An official copy of which is available from the Court) was proved and registered before the High Court of Justice. The Administration of [redacted] estate is granted by this court to the following Executors

[redacted] of [redacted]
and [redacted] of [redacted]
and [redacted] of [redacted]

The application has stated that the gross value of the estate in the United Kingdom amounts to £521,427 and the net value amounts to £517,834

[Signature]
DISTRICT REGISTRAR

Extracted personally
If you wish to validate the information contained within this document please call 0300 303 0648



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.

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 is also required to sell or transfer property owned by the deceased person (the exception being property owned as 'joint beneficial tenants').

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.

Probate also legally validates the Will. Strictly speaking, the Will isn't *legally* valid until probate has been granted.

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.

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*.

Who should deal with probate?

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

Anyone can act as Executor providing they aren't aged under 18, lacking in mental capacity as defined by the Mental Capacity Act, or bankrupt.

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

The Three Probate choices

When faced with the need to obtain Probate the Executor of the Will has 3 choices:

1. **'Do it Yourself' with no help or support.** It is perfectly achievable for the Executor to complete Probate themselves using the information contained in this book. This approach, whilst the cheapest, carries the most risk and does not include the support and peace of mind option 2 can provide. The executor should be cautious when handling DIY probate without assistance, as mistakes can lead to delays of several months and create additional legal and administrative work
2. **Assisted Do it Yourself with help and support.** With this option, the Executor completes the basic administration tasks but the important legal and inheritance tax aspects are completed properly by a professional. This reduces the risk and the amount of time spent preparing legal paperwork and forms. The Executor also has access to expert help by telephone and email until the process is completed, to ensure the right decisions are made when faced with doubt or moments of uncertainty. It is a convenient, fast and cost-effective way to deal with probate correctly.
3. **Fully Managed Probate.** A professional service whereby all of the probate and estate administration duties are handled by a solicitor from start to finish. This is the most expensive option because legal fees are charged even for completing the most basic administrative tasks. The Executor can lose control of decision-making responsibilities of the deceased person's estate as the solicitor usually assumes full control.

Always choose option 3 and consult a solicitor if:

- There is any dispute relating to the estate or a possible claim against it.
- The estate is of insufficient value to pay the debts and legacies due.



The risk of making a mistake is greater in the above scenarios and therefore it pays to have the matter handled by a specialist probate solicitor.

If none of the above scenarios apply then there is no reason why the Executor should not complete a successful DIY Probate.

In fact, most Executors of a Will now complete a 'DIY' Probate themselves.

Recent data from the Probate Service, part of HM Courts and Tribunals Service (HMCTS), reveals that more individuals now obtain probate themselves, rather than go through a solicitor. Last year, over half (56%) of the Grants of Probate issued went to private individuals completing a DIY Probate, up from just 12% in 2009.

PROBATE PROCESS OVERVIEW

Any person who is a named Executor in the Will, aged over 18, in sound mind and not bankrupt can obtain probate in England and Wales.

Below is a summary of the steps required to complete Probate (this approach, whilst the least costly, does not include the benefits the Assisted DIY Probate Service can provide).

- 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. DWP, financial institutions, utility companies and insurance companies.
- 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 requirements for HM Revenue & Customs*.**
- 5.** Establish whether there is any inheritance tax to pay, report the value of the estate to HMRC either online or using form IHT400 where required, and pay any tax due*.
- 6. Complete the probate application*.** Once the estate has been valued and the inheritance tax formalities completed, apply for Probate either online, or by post using Probate Application Form PA1.
- 7. Send the supporting probate application paperwork to the Probate Registry*.** To include the original Will, the official probate fee, an official copy of the death certificate and Probate Application Form PA1 for postal applications (you don't need to send form PA1 if you are applying online).

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

- 8. Check the Grant of Probate has been issued correctly.** Any errors, such as misspelled names, need to be rectified immediately.



9. Place the Legal Notices under Section 27 Trustee Act 1925 (optional).

This step ensures that any money owed by the deceased person is settled within a specific timeframe, and offers a degree of protection from ongoing financial liability for the Executor(s).

10. 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.

11. 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.

12. 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.

13. 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.

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

15. 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'.

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

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

** steps 4, 5, 6 are completed for clients using the Assisted Probate Service, details of which can be found on the next page.*

ASSISTED DIY PROBATE

“DIY Probate Done Properly”

Help is available in obtaining probate through the Assisted DIY Probate Service, administered by Berkeley Weston Ltd Legal Services. As well as ensuring probate is obtained in the shortest possible time, one of the main functions of this service is to **ensure correct completion of the forms and legal paperwork**, to reduce the prospect of the Executor of the Will making a mistake.

This is a **fast-track** method for obtaining probate, with full help and support. Your probate application can be completed the same day via a telephone or online meeting.

Timescales for obtaining probate using the assisted service are typically 4-8 weeks (compared with 16 weeks for an unassisted probate and 6-12 months for a traditional solicitor or probate company).

Clients also benefit from priority access to **one-to-one help and support throughout the probate process**, either over the telephone or by email. There are no restrictions on the number of times clients can access the help and support service.

It is an **inexpensive** way to obtain probate with expert professional help whilst still retaining control of a loved one's final affairs. The fee for the assisted is fixed at the outset with no “hidden extras” or hourly rate charges.

It helps individuals **minimise the risk of mistakes** by having an expert complete the complex legal and inheritance tax forms, which are often the biggest challenges for those handling probate on their own. This allows the Executor to focus on simpler tasks, like working with banks and other interested parties.

Potential savings when you use the Assisted DIY Probate Service typically add up to £3,000-£12,000 when compared with instructing a solicitor or probate company.

To qualify for the Assisted DIY Probate Service the person applying must be a named Executor in the Will (or the deceased's next of kin if there isn't a Will), and the estate must not be disputed.

What's included with the Assisted DIY Probate Service?

- **Complete the inheritance tax requirements for HM Revenue & Customs**

Establish whether there is any inheritance tax to pay, report the value of the estate to HMRC either online or using form IHT400 where required, and pay any tax due.



Ensuring this aspect is completed eliminates the risk of an Executor making incorrect calculations in the HMRC inheritance tax reporting, which is a prerequisite for applying for probate. Incorrect or incomplete reporting is the most common reason the Probate Registry rejects or delays applications submitted by individuals without professional assistance.

- **Complete the probate application*.** Once the estate has been valued and the inheritance tax formalities completed, apply for Probate either online, or by post using Probate Application Form PA1.
- **Send the supporting probate application paperwork to the Probate Registry*.** To include the original Will, the official probate fee, an official copy of the death certificate and Probate Application Form PA1 for postal applications (you don't need to send form PA1 if you are applying online).
- **Unlimited help and support.** Clients have unlimited access to help and support by phone and email throughout the entire probate process. This provides peace of mind and ensures that clients can get the guidance they need when they need it.
- The executor of the Will completes the remaining steps as described on pages 6-7, with expert help and guidance available where required.

AI VIEWPOINT - Risks of Applying for Probate Independently without help vs. The Assisted Service

While the UK government website provides resources for applying for probate independently, a consumer with no legal knowledge might face certain risks compared to using Berkeley Weston Ltd's Assisted DIY Probate Service.

The sources highlight several potential pitfalls of independent probate navigation.

Increased Likelihood of Errors: The probate process is document-intensive and requires a thorough understanding of legal terminology and procedures. A person unfamiliar with these intricacies could easily make mistakes when completing forms, valuing assets, or addressing inheritance tax requirements. Such errors could lead to delays in probate being granted, financial penalties, and even legal complications.

Lack of Personalised Guidance: The gov.uk website offers general information, but it lacks the personalised guidance that a service like Berkeley Weston Ltd provides.

Consumers might struggle to interpret specific instructions, determine the correct forms, or address unique circumstances related to their case. This lack of support could result in costly mistakes or prolonged probate proceedings.

Time Commitment and Complexity: Independently researching, completing forms, and communicating with relevant parties throughout the probate process can be incredibly time-consuming, especially for someone unfamiliar with the legal landscape. This can be particularly challenging while also coping with the emotional weight of bereavement. The Assisted DIY Probate service significantly reduces this burden by managing the complex aspects and offering expedited probate submission.

Financial Risks and Liability: Without a strong understanding of inheritance tax, exemptions, and legal obligations, consumers risk miscalculating tax liabilities incorrectly completing the official reporting requirements. These errors could lead to personal financial liability for the executor, potentially depleting the estate's value and causing conflict among beneficiaries.

Lack of Emotional Reassurance: Dealing with probate can be stressful, and having access to expert advice and support can provide valuable peace of mind. Berkeley Weston Ltd's service includes unlimited phone and email support, offering reassurance and guidance throughout the process. This level of support is absent when relying solely on government resources.

Conclusion, while the gov.uk website offers a starting point for understanding probate, it does not replace the expertise and support a dedicated service provides. For a consumer with no legal knowledge, the risks associated with independent probate application, including errors, delays, financial liabilities, and added stress, might outweigh the potential cost savings. Berkeley Weston Ltd's Assisted DIY Probate Service offers a compelling alternative by mitigating these risks, providing expert guidance, and ensuring a smoother, more efficient probate process.

In Summary, the Assisted Probate Service

- ✓ **Minimises risk** – the critical probate application and inheritance tax aspects are completed by a probate expert on your behalf, which means you're minimising the risk of making an error and encountering delays with probate being granted.
- ✓ **Retain control** – You retain control of your loved one's final affairs rather than passing responsibility to a firm of solicitor's or probate company.
- ✓ **Lower cost** – reasonable fixed fee known at outset (see below for details) rather than a % of the estate (typically 1.5%) + £ hourly rate.
- ✓ **Expert help and guidance** – You can call or email with questions about how to complete their responsibilities at any stage of the probate process.



-
- ✓ **Save Tax** – We identify any potential ways of mitigating inheritance tax and capital gains tax for assisted probate clients.
 - ✓ **Speed** – You'll obtain probate in the shortest time possible by having your probate application 'fast-tracked' where possible using the online application process, thereby cutting the processing time at the Probate Registry to a minimum. Current typical timeframes are in the region of 3-4 weeks to obtain probate.

How much does the Assisted DIY Probate Service Cost?

The fee will depend on the inheritance tax reporting requirements as follows:

- Excepted Estates (online reporting for inheritance tax) - £995 + VAT
- Non-Excepted Estate (HMRC form IHT400 required) no inheritance tax to pay - £2500 + VAT
- Non-Excepted Estate (HMRC form IHT400 required) inheritance tax to pay - £3000 + VAT

The fee is fixed at the outset, with no hidden extras, and can be paid or reclaimed from the estate as a valid expense. Alternatively, arrangements can be made for the deceased's bank to settle the fee directly from an account held in the deceased's name.

If you have questions about the Assisted DIY Probate Service please email support@berkeleyweston.co.uk, telephone 0116 2795044 during normal office hours or book a free phone consultation using the link below:

<https://calendly.com/berkeleyweston/phone-consultation-with-phil-weston>

Application for the Assisted DIY Probate Service
Confidential Information Form

1. Your name & telephone number _____
2. Executor(s) Full Name(s) _____
3. Executor(s) Home _____
Address _____
4. Executor(s) Telephone Number _____
5. Executor(s) Email address _____
6. Executor(s) occupation _____
7. Executor's relationship to the deceased person _____
8. Deceased person's full name _____
9. Deceased person's address _____
10. Deceased person's marital status _____
If married, the date of marriage _____
If divorced, the date of divorce _____
11. Was the deceased, or his/her immediate family, adopted? If Yes, please provide further details _____
12. Any special comments or instructions _____

I wish to apply for the Assisted DIY Probate Service (please do not send payment until you have received confirmation of acceptance of your application by Berkeley Weston Ltd)

→ _____ SIGNATURE

Please enclose a completed 'Assets and Liabilities Form', a copy of the Will and official copy of the Death Certificate

Return immediately to:

Berkeley Weston Ltd
Business Box
Oswin Road
LEICESTER
LE3 1HR

Checklist:

- | | |
|--------------------------|--|
| <input type="checkbox"/> | Copy Will (if there is one) |
| <input type="checkbox"/> | Copy Death Certificate |
| <input type="checkbox"/> | Completed 'Assets & Liabilities' Form |
| <input type="checkbox"/> | Signed & Completed Confidential Information Form |

or scan & email this form & accompanying documents to support@berkeleyweston.co.uk



LOCATE AND CHECK THE ORIGINAL WILL

Locating the Will

It is essential that the **original** Will is located, as you'll need to send the original Will with your probate application - you cannot use a photocopy. The Probate Registry will keep the Will and it'll become a public record.

Start by looking through the personal paperwork of the deceased to

try and locate the whereabouts of the original Will. If this isn't successful try:

- local solicitors, Will-writing firms
- the deceased's bank(s).
- conducting an online search, through www.certainty.co.uk.
- The national probate registry in Newcastle

www.find-court-tribunal.service.gov.uk/courts/newcastle-district-probate-registry

- you'll need the death certificate and evidence you're the executor

If it is thought that the deceased left a Will with a solicitor but it cannot be located, place a notice with the Law Society Gazette: www.lawgazette.co.uk (0207 320 5841). If the original firm of solicitors that held the will are no longer in business, contact the Solicitors Regulation Authority on 0370 606 2555 to establish where the firm's documents and records are now stored.

If the original Will is lost, you may be able to apply for probate using form PA13.

Checking the Will

The Probate Registry conduct a thorough check of the Will to ensure it complies with all of the various legal requirements. You should be aware of these factors and check the Will thoroughly before applying for the Grant of Probate. If the Probate Registry have cause to query the Will it'll have an impact on the processing time it takes them to issue the grant of probate.

These are the main factors to consider:

1. Legal capacity

The deceased (known as the ‘testator’ in reference to their Will) must have had full understanding of the Will and its implications, the extent of their estate, and the moral obligations owed to potential beneficiaries at the time of their writing it.

The deceased must have understood the effects of their Will without being affected by any mental disorder.

The key point is that the testator had the required legal capacity **at the time of making the Will**.

For example, some people who suffer from Alzheimer’s disease have moments of lucidity. If the Will was written during one of these periods then it is possible they had the required legal capacity. If, however, the Will was written at a time when their mental capacity was significantly reduced, the requirements for full legal capacity would probably not have been met.

2. Free of duress

It is also essential that the testator was acting within his or her own free will and was not under the influence or duress of any other person.

3. Legal Requirements

The Will must have been:

- Produced in writing; typed, handwritten or printed.
- Signed by the testator (or somebody in their presence if they are incapable, as long as the person signing the Will is doing so at the testator’s request).
- Witnessed by two or more persons present at the same time as each other, who are not named as beneficiaries in the Will.
- Signed by the witnesses within the testator’s presence.

Signatures should be accompanied by the following (or very similar) wording: *‘Signed by the Testator in our presence and attested by us in the presence of the Testator and of each other.’*

Signatures of the testator and the witnesses should appear at the end of the Will.



Any wishes and instructions contained following the signatures can suggest that they were added after the Will was signed. This may lead to the Probate Registry raising queries and seeking further proof by way of an affidavit.

4. Void Will Bequests

Be mindful of the following circumstances and seek legal advice where appropriate:

- **Bequests to witnesses or their spouse/partner.** The witnesses to a Will must be independent. Any bequest made to a witness or their spouse/partner is void, unless there are two further disinterested witnesses to the Will. This will only affect the part of the Will pertaining to the witness or their spouse/partner.
 - Irreconcilable bequests, e.g. where the same item has been bequeathed to two different individuals.
 - Insufficient assets are available to pay all debts and/or legacies.
 - Bequests to people who have died before the testator, or to organisations that no longer exist.
 - Bequests of items that no longer exist.
 - Gifts of other people's property.

Other potential issues to check with the Will that are likely to result in queries raised by the Probate Registry and a delay in probate being granted:

- The Will being marked as “draft”
- The Will is not dated, or there is an incomplete date
- Two different dates on the Will – date on cover page does not match date on the attestation clause
- Two different inks on Will
- The Will appoints a “spouse” as Executor but does not state his/her full name them
- A Solicitor firm named as an executor no longer exists
- The Attestation clause is missing or faulty
- Signatures; placement not right, no signature, or a signature is missing or shaky

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- Alterations to the Will; addition or removal of words.
 - Condition of the Will; separate sheets, staple holes, tears, burn marks, pin holes.
 - Clause numbering incorrect

Varying the Will

While most people are aware that a person can alter the terms of their own Will during their lifetime, it is not common knowledge that the same can be done to a valid Will, by the beneficiaries of the estate, after the death of the deceased.

Another situation where this is possible is in cases where a beneficiary dies and their own personal representative can disclaim or vary their inheritance, as long as they have the consent of those set to inherit from the beneficiary's estate.

Reasons for variation

There are many reasons why variation may take place, including the following:

- Circumstances changing after a Will has been made, for example the deceased having married or entered a registered civil partnership.
- Personal representatives and beneficiaries may decide to settle problems created by unclear instructions left in a Will out of court, by mutual agreement, which must be detailed in writing.
- Beneficiaries may wish to provide for somebody they consider to have been overlooked, or wealthy beneficiaries may wish to redirect bequests made to themselves to their children or grandchildren.

The most common reason of all for variations being made to a Will is to ensure the least amount of tax is incurred.

Changes to the Will are achieved by drafting a legal document called a 'Deed of Variation'. Seek advice from a solicitor if a Deed of Variation is required.



WHAT TO DO IF THERE ISN'T A WILL

If someone dies without leaving a Will it creates a legal situation called 'intestacy'. In this situation the law states who may administer the estate and who may benefit from it.

'Intestacy' can arise in the following circumstances:

- A person has died without leaving a Will.
- The Will of the deceased is invalid, e.g. it was not witnessed.
- The Will was revoked prior to death.
- The named beneficiary or beneficiaries of the Will died before or alongside the deceased.

There is also a situation known as 'Partial Intestacy', which means that the Will left by the deceased did not account for the whole of their estate. In this case, the part(s) of the estate not accounted for will be subject to the laws of Intestacy.

Action Required: Obtain 'Letters of Administration'

The deceased person's legal next of kin (see over) shall need to obtain a 'Grant of Letters of Administration' to deal with the deceased person's assets.

Letters of Administration is the equivalent of probate where the deceased did not leave a Will. The title is slightly misleading in that it is actually a legal document rather than "letters" in the common use of the word.

The process to obtain Letters of Administration is almost identical to that involved in obtaining Probate.

Alternatively, use the Assisted DIY Probate Service to get the application completed by an expert on your behalf. When completing the Confidential Information Form write a note in question 12 'Any special comments or instructions' that there isn't a Will'.

Who should administer the estate if there isn't a Will?

There are legal rules to help identify the next of kin responsible for administering a deceased person's estate where there is no Will. The order of priority is listed overleaf:

IDENTIFYING THE LEGAL NEXT OF KIN

Only certain people are legally allowed to apply for a Letter of Administration. There is a strict legal 'pecking order' of who can apply, based on their relation to the deceased person.

To identify that person move down the list below. The person(s) that appears highest up the list is responsible for applying for the Letter of Administration:

- 5.** The husband, wife or registered civil partner (**not** unmarried or "common law" partners).



- 6.** Children. (If the deceased was unmarried or divorced and had children under the age of 18, the surviving parent of the children is responsible for dealing with the Letter of Administration requirements).



- 7.** Grandchildren.



- 8.** Parents.



- 9.** Brothers and sisters.



- 10.** The children of brothers and sisters (i.e. nieces/nephews).



- 11.** Brothers and sisters of the half-blood (they have just one parent in common) of the deceased.



- 12.** Grandparents.



- 13.** Uncles and aunts.



NOTIFY INTERESTED PARTIES

Checklist - People and organisations to notify of the death:

- ☐ The family doctor.
- ☐ The police, if the death was unexpected or did not happen within a hospital.
- ☐ The deceased's employer or pension provider.
- ☐ Department of Work and Pensions, if the deceased received a state pension or any other state benefits. You can now do this online at the following website:

<https://www.gov.uk/tell-us-once>
- ☐ Anybody to whom the deceased had power of attorney and any deputy appointed by the Court of Protection.
- ☐ Financial companies that the deceased had a relationship with e.g. bank and building societies, share registrars, insurance companies, ISA providers and National Savings & Investments.
- ☐ Creditors such as mortgage provider, credit cards, loans etc.
- ☐ Local Authority Council Tax department.
- ☐ Utility suppliers.
- ☐ Vehicle & home insurers. Ensure any conditions imposed by them are strictly observed.
- ☐ Any other interested parties such as Social Services, Care Providers and HM Revenue & Customs.

The most reliable, albeit slowest, way to notify these organisation is by sending a

letter enclosing the death certificate. Alternatively, many major financial organisations such as high street banks offer a facility to report a death online. A simple internet search will reveal whether this is an option, or whether you'll need to resort to old fashioned postal notification.

Telephoning organisations to notify them of the death isn't recommended. You'll waste hours trying to speak to the right person, only to be told they are not allowed to give the information out over the phone due to Data Protection Rules. If you are lucky enough to

find someone to speak to, they will still require you to send the death certificate (and possibly a copy of the Will) in the post anyway, so simply save yourself the bother of telephoning in the first place!

Here's what a notification letter should look like (this particular example is to a bank):

BANK NAME

YOUR NAME

BANK ADDRESS

YOUR ADDRESS

[today's date]

Dear Sir/Madam

Re: The Estate of [NAME OF DECEASED] deceased Account Number: [ACCOUNT NUMBER(S)]

I am the Executor of the above named deceased, who died on [DATE]. Please find enclosed the death certificate for you to note and return.

In respect of the above account(s) would you please take the following actions: ALL

ACCOUNTS (including Joint Accounts)

1. Freeze the account(s).
2. Advise me of the balance(s) at the date of death and, if applicable, provide a separate note of net interest accrued but unpaid as at the date of death.
3. If applicable, provide me with a copy of any direct debit and standing order instructions, and confirm to me in writing that these have been cancelled as at date of death.
4. Please supply details of interest earned during the last two tax years, and also the period 6th April to the date of death for all accounts, including those in joint names.
5. Advise whether the deceased holds any other accounts with you and, if so, provide me with the above information for these accounts.
6. Confirm whether you hold any items in your safe-keeping facility, and advise me how I can gain access to these items.
7. 7 Forward to me any documentation which needs to be completed to enable me to close the account once I have a Grant of Probate in the estate.



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8. Direct all future correspondence relating to this account, and any other accounts the deceased holds with you, to me at the above address.

JOINT ACCOUNTS ONLY

Please let me know the date of opening and the names and addresses of the joint owners. Please confirm who received the interest and who received the benefit of any withdrawals.

The balances on these accounts should be transferred into the survivors' names, and they should be informed. No further transactions for the Deceased should pass through such accounts.

MORTGAGES

Please let me have full details of the property charged, details of the mortgage account number, details of any policies assigned, the capital balance and accrued interest outstanding at date of death and the daily rate at which interest accrues.

With regard to endowment mortgages, please supply full details of all policies concerned, stating whether these have been formally assigned or not, and whether you are claiming the proceeds from the insurance company.

Please confirm if you are holding the deeds to the property.

PAYMENT OF INHERITANCE TAX AND COURT FEES

Please confirm the circumstances in which you would be prepared to advance funds from the Deceased's account(s) for the payment of Inheritance Tax and Court fees before registration of the Grant of Representation with you. Please confirm whether the funds would be released by cheque or under the Inland Revenue Inheritance Tax Direct Payment Scheme. Please send me all necessary withdrawal and other forms for this purpose.

If you are not prepared to advance funds from the account(s), please confirm whether you are prepared to offer a loan to pay such and, if so, the amount of the arrangement fee and rate of interest charged. A certificate of loan interest charged will be required on repayment of the loan for income tax purposes.

Thank you for your assistance in this matter.

Yours faithfully

[YOUR NAME]

VALUE THE DECEASED PERSON'S ESTATE

Begin by making a list of everything the deceased owned which can be turned into a cash value – even if the sale of an asset is not intended.

Both solely-owned and jointly-owned assets need to be valued and recorded.

Once you have obtained the value of an asset record the details on the Assets and Liabilities Form which accompanies this book.

Record whether an asset was owned by the deceased person in his/her sole name or jointly with someone else (e.g. a joint bank account).

- ☐ The type of assets that you should establish a value for are as follows:
- ☐ Bank and building society accounts
- ☐ Shares
- ☐ Life insurance
- ☐ Pensions
- ☐ Employer benefits, e.g. death in service benefit
- ☐ Property and land owned by the deceased
- ☐ Furniture and other personal effects
- ☐ Investments such as ISAs and unit trusts
- ☐ Investment bonds
- ☐ Motor vehicles
- ☐ Boats, and Caravans
- ☐ Art
- ☐ Jewellery
- ☐ Business assets
- ☐ National Savings & Investments products, e.g. Premium Bonds



☐ Interest in trusts

You will get the valuation figures you'll need from financial organisations after you have formally notified them of the death.

How to establish the value of an asset for probate and inheritance tax purposes

It is essential to find out the market value (realistic selling price) of all the assets owned by the deceased at the date of death.

Some assets may require detailed enquiries, and you may need to employ a professional. For example, HM Revenue & Customs (HMRC) recommend that you use a professional (surveyor or estate agent) for establishing the Probate Value of land and buildings where you need to complete an inheritance tax account (IHT400)

Property and land

Firstly, you need to identify whether any property owned by the deceased person is owned in his/her sole name, or jointly with someone else.

If the property is owned jointly, you will need to find out whether it is owned as either:

- i. Beneficial joint tenants** own the property jointly, so that on the death of the first to die the property passes to the surviving joint owner under the survivorship laws. In this case the deceased person's share of the property does not form part of the estate and cannot be left in a Will.

OR

- ii. Tenants in Common** each own a defined share (e.g. 50% each) of the property, and when one of them dies their share is included in their estate. Ownership passes to the person(s) named in the Will.

Action Required:

You can find out whether a property is owned as beneficial joint tenants or tenants in common online by downloading the Title Register from the Land Registry website at:

<http://www.landregistry.gov.uk/public/property-ownership>

Download and check the "title register" (there is a small fee, currently £3). Find the "proprietorship register" section and look for the following clause:

‘RESTRICTION: No disposition by a sole proprietor of the registered estate (except a trust corporation) under which capital money arises is to be registered unless authorised by an order of the court.

This clause indicates that the property is owned as tenants in common. In short, this means that the deceased’s share of the property should pass in accordance with the Will.

If this clause isn’t present you can presume the property is owned as beneficial joint tenants in the absence of any evidence to the contrary.

Completion of this step is included for clients of the Assisted DIY Probate Service, administered by Berkeley Weston Ltd.

Note: This online service is only available for properties with registered title. This will become apparent when checking the Land Registry website. If the property has unregistered title you will need to locate the title deeds.

Don’t be tempted to skip this task – it is vitally important that you identify correctly how any property is legally owned. Failure to do so can result in errors with the inheritance tax return and a possible maladministration of the estate.

Valuing Property and Land

It is best practice to value property at the ‘open market value’ by getting at least two, preferably three, independent valuations from an estate agent or surveyor. If inheritance tax is payable HMRC lie to see a professional valuation from a RICS qualified surveyor.

It is important obtain the ‘open market value’ figure in writing and not the ‘initial asking price’, which often used when a property is put on the market for sale. It is important that the surveyor or estate agent is notified of this requirement.

These written valuations should accompany the completed IHT400 inheritance tax return as supporting written evidence.

An accurate property valuation is critical to avoid potential Capital Gains Tax and Inheritance Tax issues in the future. To get more information on these aspects email support@berkeleyweston.co.uk or book a free phone consultation using the link below:

<https://calendly.com/berkeleyweston/phone-consultation-with-phil-weston>



Life insurance and employer benefits

For life insurance policies and employer benefits such as ‘death in service’, enquire if they are held in trust, to be paid into the estate, or if the deceased nominated specific beneficiaries.

Bank/Building Society accounts

These are easy to value as the relevant organisation will confirm balances and values at the date of the deceased’s death in response to your initial ‘notification of death’ letter.

Shares

The Share Registrars should notify you of the number of shares the deceased owned in a particular company.

You will need to work out the share price at the date of death to work out the value of the shareholding. You can do this quickly and easily by conducting an internet search along the lines of “historical share price” followed by the company name. Click on the search results, enter the date of death and you should be presented with the share price for the given date.

Furniture and personal effects

If you need to complete a full inheritance tax account (IHT400) you will need to value house contents and personal effects. You don’t need to value “pots and pans”, but concentrate on items with a resale value.

You can research valuations yourself using online auction sites such as Ebay. Print and retain your research as proof.

If the prospect of this is too time-consuming and unappealing, consider using an auctioneer. They would also be able to organise a house clearance and auction of any of the deceased’s furniture and personal effects that have not been left in the Will, if required.

If you don’t need to complete a full inheritance tax account (IHT400), it is acceptable to use a “ball park” estimated figure.

Vehicles

It is possible obtain valuations of motor vehicles through checking online sites such as Parker’s Car Price Guide, What Car? and Autotrader. Ensure that you keep records of such valuations.

Probate is not required to sell a motor vehicle. The executor can sign the DVLA V5 document (sometimes called the “logbook”) and sell the vehicle at any time.

When you have the figures for all of the above assets, record them on the ‘Assets and Liabilities’ form which accompanies this book.

Lost or Missing Assets

If assets and liabilities are not immediately obvious, it will be necessary to undertake a thorough search of the deceased’s home and locate any paperwork that may provide clues. It is advisable to ensure a reliable witness is present for such a search.

Paperwork may include bank and pension statements, and details of share dividends.

In addition to a physical search, a free service is available online

at www.mylostaccount.org.uk to establish details of any bank or building society accounts in the deceased’s name. However, you should be aware that this search could take a number of months to complete.

The Unclaimed Assets Register Service: www.uar.co.uk charges £25 to conduct a search for holdings of unit trusts, life insurance policies and pensions.

Check for unclaimed Premium Bond prizes online at www.nsandi.com.

The deceased person’s last tax return is a good source of financial information. This will list all of their income and will give you some idea as to the extent of the estate’s assets.

Contact people and organisations who may be able to provide other information. The deceased’s family, friends, business associates, accountants, solicitor, financial adviser, stockbrokers and banks may be able to help.

Identify any gifts made by the deceased

Identify and record any gifts that the deceased made which are not exempt from inheritance tax. See the section below on ‘Inheritance Tax exemptions and reliefs’.

In addition to gifts, you need to identify and record the following:

- Assets given away during the seven years before the death of the deceased.
- Assets given away at any time in which the deceased retained an interest. For example, gifting a house to a family member but continuing to live there rent free.

Deduct any Debts owed by the deceased

Establish the extent of any debts and liabilities owed by the deceased. Items to consider are:



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- Outstanding mortgage balance(s)
 - Unsecured lending, e.g. credit cards and personal loans
 - Bank overdrafts
 - Unpaid Income Tax
 - Utility bills and Council Tax
 - Funeral expenses
 - Overpaid pension payments
 - Care fees
 - Money owed to family members

Make a list of these liabilities and debts on the Assets and Liabilities form on the next page (a copy is also enclosed in the resources section).

Keep a record of the valuation figures

Keep copies of all the paperwork you have for obtaining valuations, as you will need these to complete the Inheritance Tax and Probate forms.

ASSETS & LIABILITIES FORM

ASSETS & GIFTS

Bank Accounts	Description	Sole or Joint?	Amount
Building Society Accounts	Description	Sole or Joint?	Amount



			Total:
Other Savings & Investments	Description	Sole or Joint?	Amount
ISA			
ISA			
ISA			
Investment Bond			
Investment Bond			
Investment Bond			
National Savings & Investments			
National Savings & Investments			
National Savings & Investments			
Premium Bonds			

Unit Trust			
Unit Trust			
Unit Trust			
Endowment Policy			
Endowment Policy			
Endowment Policy			
Life Insurance			
Life Insurance			
Life Insurance			
Shares			
Shares			
Shares			
Shares			
Shares			
Pension lump sum			
Pension lump sum			



			Total Other Savings & Investments
Properties	Address	Owned solely or jointly?	Value
Main residence			
Land			
Other			
Other			
			Total Property Value
Personal Effects	Details	Owned solely or jointly?	
House Contents			
Jewellery			
Works of Art			
Motor Vehicles			
Furnishings			
Other			
			Total Personal Effects
			Grand Total - Assets

Financial Gifts by the deceased	Date of gift	Name of recipient	Relationship	Amount of Gift

Creditors	Description/Ref	Amount
FUNERAL		
Total Liabilities		£

COMPLETE THE INHERITANCE TAX REPORTING AND PAY ANY TAX DUE

A significant part of probate requires you to establish if there's any Inheritance Tax to pay and complete the appropriate HMRC reporting requirements. To do this, you'll need to have valued the estate of the person who's died and completed the assets and liabilities form on the preceding page.

This is a mandatory requirement, even if there is no inheritance tax to pay.

Once you have established the value of the estate you'll need to work out if there's Inheritance Tax to pay, taking into account the various exemptions and reliefs as detailed below in conjunction with the official online checker tool at:

<https://www.gov.uk/valuing-estate-of-someone-who-died/estimate-estate-value>

This step is included as part of the Assisted DIY Probate Service.

Inheritance Tax exemptions and reliefs

On occasion, even if the deceased's estate exceeds the threshold amount, it is possible to pass on assets without having to pay Inheritance Tax.

Examples of this are as follows:

- **Husband/wife or registered civil partner exemptions.** Inheritance Tax is not payable on assets that pass to a spouse. Please note this does not apply to common law partners.
- **Charity exemptions.** Any gifts made to a qualifying charity, either during the deceased's lifetime or left in their Will, are exempt from Inheritance Tax.
- **Potentially exempt transfers.** If the deceased made a gift to a person seven years or more prior to their death then the gift is generally exempt from Inheritance Tax, no matter what the value of the gift was.
- **Annual exemptions.** The deceased was entitled to give up to £3000 away each year, either as one single gift or several adding up to this amount, without it incurring Inheritance Tax charges. It is also possible to use any unused amount of this allowance from the previous year.
- **Small gift exemptions.** Any number of gifts of up to £250, to separate individuals, can be made tax-free.



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- **Wedding and civil partnership gifts.** Any gifts made to a person getting married or registering a civil partnership are tax-free, up to a set amount (which can be checked with HMRC).
 - **Business, woodland, Heritage and Farm Relief.** If the deceased owned a business, farm, woodland or National Heritage property, their estate may benefit from some Inheritance Tax relief.
 - **Residence Nil Rate Band.** The IHT Residence Nil Rate Band (RNRB) was introduced in April 2017. It is in addition to an individual's own Nil Rate Band of £325,000, and conditional on the main residence being passed down to direct descendants (e.g. children, grandchildren).

The RNRB started at £100,000 and increased by £25,000 each tax year until 2020, as follows:

- £100,000 in 2017-2018
- £125,000 in 2018-2019
- £150,000 in 2019-2020
- £175,000 in 2020-2021

The RNRB can be claimed providing the following conditions are met:

- The deceased died on or after 6 April 2017
- The estate includes a residence owned by the deceased. Only one residential property will qualify. A property which was never a residence of the deceased e.g. a buy-to-let, cannot be nominated.
- The residence in the estate is inherited by the direct descendants of the deceased.

The RNRB will be transferable between spouses and civil partners on death. For example, when combined with the full RNRB of £175,000 in 2020/21 this would provide a married couple with a possible £1,000,000 nil rate band if they left their estate to each other on the first death and then on the second death to their children.

The RNRB will be reduced by £1 for every £2 that the deceased's net estate exceeds £2,000,000. This will mean that on its introduction there will be no RNRB available if the deceased holds assets of more than £2,200,000. This will rise as the RNRB rises.

The family home doesn't need to be owned at death to qualify. For example, a person may have downsized or sold their property to move into residential care. Downsizing or the disposal of the property has to have taken place after 8 July 2015.

To claim the transferable residence nil rate band refer to HMRC forms IHT400, IHT435 and IHT436.

For detailed notes about the residence nil rate band refer to the following webpage:

<https://www.gov.uk/guidance/inheritance-tax-residence-nil-rate-band>

If you need help with inheritance tax you can schedule a free telephone consultation by clicking the link below:

<https://calendly.com/berkeleyweston/phone-consultation-with-phil-weston>

Or email support@berkeleyweston.co.uk

If Inheritance Tax is due

You'll need to give full details of the estate to HM Revenue and Customs if Inheritance Tax is due using form IHT400 and accompanying schedules.

You must submit the form within 12 months of the person dying. **You may have to pay a penalty if you miss the deadline or if you give inaccurate information.**

If you need to change any figures on the form after you've submitted it you'll need to fill in a corrective account form C4 and send it to HMRC.

Paying Inheritance Tax

If inheritance tax is due you'll need to obtain a reference number from HMRC. You can do this online at: www.hmrc.gov.uk/inheritancetax/online.htm

The following information is required about the deceased:

- Full name
- Date of death
- Date of birth
- National Insurance number

Payment of Inheritance Tax is required either when you submit the form of account of the deceased's estate to HMRC, or else six months from the last day of the month in which the



deceased died. More information can be found at: www.hmrc.gov.uk/inheritancetax/paying-ihl/payment-deadlines.htm.

It is possible to pay the tax in ten equal annual instalments in respect of the following assets:

- Land and buildings, including agricultural land and property.
- Certain shares and securities.
- Net value of a business run for profit (this does not apply to the business assets).

However, if you sell the asset then you must pay the amount of tax due in full.

Finding the money to pay Inheritance Tax

If the deceased had enough funds in a bank, building society or National Savings & Investments account then you can request that the account-holding institution pays HMRC direct (using the Direct Payment Scheme – see form IHT423). For other ways to pay see:

<https://www.gov.uk/paying-inheritance-tax>

Where there are not sufficient funds in accounts to pay the Inheritance Tax due, you should be able to obtain a loan from a bank or building society. Any interest payable on this loan will be a liability of the estate of the deceased.

When to send full details of the estate's value to HMRC using form IHT400 even if no tax is due

You'll need to send full details of the estate, even if no tax is due, if the person who died:

- gave away over £250,000 in the 7 years before they died (£150,000 if the person died on or before 31 December 2021)
- gave gifts then continued to benefit from them in the 7 years before they died
- left an estate worth more than £3 million (more than £1 million if they died on or before 31 December 2021)
- died on or before 31 December 2021 and had inherited part of the Inheritance Tax threshold from a previous spouse or civil partner
- was 'deemed domiciled' in the UK
- had foreign assets worth more than £100,000

-
- was living permanently outside the UK when they died but had previously lived in the UK
 - had a life insurance policy that paid out to someone other than their spouse or civil partner and also had an annuity
 - had increased the value of a lump sum from a personal pension to be paid after their death, while they were terminally ill or in poor health
 - had agreed that property they'd given away during their lifetime would be part of their estate rather than pay a pre-owned asset charge

If the estate includes trusts

You'll need to complete a full account if the deceased:

- gave gifts that were paid into trusts
- held assets worth over £250,000 in trust (£150,000 if the person died on or before 31 December 2021)
- held more than one trust

You'll also need to complete a full account if the deceased died on or after 1 January 2022 and assets held in trust passed to a surviving spouse, civil partner or charity and the trust was worth:

- £1 million or more
- £250,000 or more after the amount passing to the surviving spouse, civil partner or charity has been deducted

When full details are not needed - 'excepted estates'

You do not have to give full details of an estate's value if all of the following are true:

- the estate counts as an 'excepted estate'
- there's no Inheritance Tax to pay
- you've checked that none of the reasons under 'when you need to send full details of the estate's value even if no tax is due' apply

What counts as an excepted estate depends on whether the person died:

- on or after 1 January 2022



-
- on or before 31 December 2021

If the person died on or after 1 January 2022

An estate is usually an excepted estate if any of the following apply:

- its value is below the current Inheritance Tax threshold
- the estate is worth £650,000 or less and any unused threshold is being transferred from a spouse or civil partner who died first
- the deceased left everything to a spouse or civil partner living in the UK or to a qualifying charity and the estate is worth less than £3 million (search the charity register for registered UK charities)
- the deceased was living permanently outside the UK (a 'foreign domiciliary') when they died and the value of their UK assets is under £150,000

If the person died on or before 31 December 2021

An estate is usually an excepted estate if any of the following apply:

- its value is below the Inheritance Tax threshold at the time the person died
- the deceased left everything to a surviving spouse or civil partner living in the UK or to a qualifying charity and the estate is worth less than £1 million (search the charity register for registered UK charities)
- the deceased was living permanently outside the UK (a 'foreign domiciliary') when they died and the value of their UK assets is under £150,000

What to do if you're dealing with an excepted estate if the person died on or after 1 January 2022

Firstly, check that you're dealing with an excepted estate using the information detailed above and that you do not need to send full details of the estate to HMRC using form IHT400.

You need to calculate the following 3 values so you can report the estate's value:

- the estate's gross value - this includes the total value of all the person's assets and any gifts they made in the 7 years before they died
- the estate's net value - this is the gross value minus any debts, such as a mortgage or funeral costs

-
- the estate's net qualifying value - this is the net value minus any assets left to spouses, civil partners, charities or assets that are exempt for other reasons

You can use the online checker tool to help you calculate these values:

<https://www.gov.uk/valuing-estate-of-someone-who-died/estimate-estate-value>

What to do if you're dealing with an excepted estate if the person died on or before 31 December 2021

Report the value of the estate to HM Revenue and Customs (HMRC) by completing form IHT205, and IHT217 if you need to transfer an unused inheritance tax allowance for a Widow/Widower.

The importance of Correct HMRC Inheritance Tax Reporting for Probate Applications

Incorrectly completing the HMRC Inheritance Tax reporting requirements can lead to delays in the probate process, as the application may be put on hold until the errors are rectified. For example, if an individual fails to report gifts made by the deceased that are subject to inheritance tax, or if they miscalculate the value of the estate, the probate application could be delayed.

These delays can be frustrating for executors and beneficiaries, prolonging the already difficult time following a death. To mitigate the risk of such delays, individuals can consider engaging professional services like the Assisted DIY Probate Service, which ensures accurate completion of these forms and reduces the chance of errors.

APPLY FOR PROBATE (Letters of Administration if there isn't a Will)

Before applying for probate you'll need the following paperwork:

- An original copy of the death certificate as issued by the registry office, or a coroner's certificate.
- The original Will and any codicils (documents which amend the Will) in their original condition. Do **not** alter the Will in any way, including removing staples or bindings, as this will cause delays in your probate application while the Probate Registry conducts further enquiries.
- You should note that the Probate Registry will keep the original Will, so you should retain at least one copy for your future reference.
- Any other documents as specifically requested by HM Courts service, such as a copy of the decree absolute if the deceased was divorced.



If you are dealing with an excepted estate and the death occurred before 31st December 2021:

- Form IHT205 signed by all applicants.
- Supplementary forms IHT207/IHT217 if applicable.

Who should apply for Probate?

If more than one person is named as an executor, you must all agree who makes the application for probate.

Up to 4 executors can be named on the application. If you cannot agree who should apply for probate you'll need to seek independent legal advice. If more than one executor is named in the Will, any one or combination of executors can apply. Those not applying can either:

- choose not to apply now but reserve the right to apply later. This is known as holding 'power reserved'.

Tell the person who's making the probate application that you're holding power reserved. You need to do this in writing.

- Give up the right to apply completely. This is known as 'renunciation'. Fill in form PA15 and send this to the Probate Registry with your application.

Who should apply for Probate?

Check who can apply for probate if an executor has died or is unable to apply because they have a mental health condition or impairment. If the executor cannot apply because they have a mental health condition or impairment, you will need to get a medical professional, like a doctor, to fill in form PA14 before anyone applies.

Read the will to check whether:

- the executor has a named substitute
- the conditions have been met for the substitution to take place The substitute can then apply along with any other executors.

If there's no substitute but there are other executors who can apply, the other executors can apply straight away.

If a solicitor is appointed as an executor they will need to provide you with a completed PA17 Renunciation form to enable you to apply.

Applying for probate

You can apply for probate online or by post after you've valued the estate and completed the HMRC inheritance tax reporting requirements. To apply online use this link:

<https://www.gov.uk/applying-for-probate/apply-for-probate>

To apply by post you'll need to complete a paper form. The form you need to fill in depends on whether the person left a will or not.

- If there's a will, fill in application form PA1P.
- If there's not a will, fill in application form PA1A.

How long does it take?

The official guidelines from the Probate Registry are to allow 16 weeks for probate to be granted after you have submitted your application. Clients using the Assisted Probate Service through Berkeley Weston Ltd typically obtain probate within 4-6 weeks.

If you have any queries about your probate application after you've applied you should contact the Courts and Tribunals Service Centre Telephone: 0300 303 0648 Email: contactprobate@justice.gov.uk



DIY PROBATE SOS

Daunted by all of the legal requirements?

Overwhelmed by all the form-filling?

Worried about making a costly mistake?

Confused about how to proceed?



Navigating a safe passage through the probate minefield can be daunting and intimidating at a very emotional and upsetting time.

Don't Worry – **There is a Solution:**



The Assisted DIY Probate Option means you won't have to complete any of the probate and inheritance tax forms yourself.



You can get your entire probate application completed for you the same day via telephone or online appointment.

- ▶ To find out if you are eligible to apply please schedule your free consultation call by clicking the link below:

<https://calendly.com/berkeleyweston/phone-consultation-with-phil-weston>

- ▶ Or call 0116 2795044 Monday-Friday 9am-6pm, or email support@berkeleyweston.co.uk

The steps to take after probate is obtained

CHECK THE GRANT OF PROBATE AND NOTIFY BENEFICIARIES

It is important that the following steps are carried out, without taking any “short cuts”, to minimise the risk of the executor making a mistake that they may have to put right from their own personal funds at a later date.

Keep the original Grant of Representation. Use only the court sealed office copies, which bear an official stamp, to register the Grant with the various organisations. Photocopies of the Grant are not accepted.

Check the Grant of Probate

Check that the details on the Grant (e.g. name of deceased, details of personal representative and date of death) are all correct.

If any detail is incorrect, the error should be corrected at this stage of the process, without delay. This can be done by returning the original Grant plus all court sealed copies to the Probate Registry, with details of the amendment required.

Other details contained within the Grant are the gross and net values of the deceased's estate.

Notifying beneficiaries

It is advisable, but not mandatory, to write to all legatees and beneficiaries once in possession the Grant of Probate, to inform them of their inheritance and when they can expect to receive it.



PLACE NOTICE UNDER SECTION 27 TRUSTEE ACT 1927 (optional)

If the deceased had a history of using unsecured debt such as credit/store cards, loans etc the Executor(s) should give Notice under Section 27 Trustee Act 1925 that the estate is to be distributed on a given date. This protects them against claims in respect of unknown debts after the estate has been wound up.

The notice has to be published in the London Gazette. If the estate includes land, the notice must also appear in a newspaper circulated in the locality of the land.

The notices give interested parties two months from the date of the notice to make a claim against the estate. A creditor cannot seek to recover any liabilities from the estate after this two month window has closed. The Executor is therefore clear to distribute the residuary estate after this period.

Please note:

- Claimants can still recover any debts from the beneficiaries of the estate.
- Claims made against the estate under the Inheritance (Provision for Family and Dependents) Act 1975 can be made up to six months after the date probate was granted.
- It is best practice to wait until six months has passed from the date of the grant of probate before making distributions to beneficiaries. This allows a claimant to come forward within this period of time. If you pay funds to a beneficiary and a there is a successful claim against the estate, you may be personally liable.

You can contact the London Gazette by telephone on 0870 600 3322, or online at: www.london-gazette.co.uk/place-notice.

At the time of writing, the cost of placing an advertisement with the London Gazette is £75.50 + VAT. Local newspaper rates vary for advertisements but at the time of writing, rates are generally around £150 - £200.

The cost of such notices is a valid expense of the estate.

COLLECT IN ESTATE ASSETS AND TRANSFER/SELL PROPERTY

Write to the asset holding organisations such as banks and building societies enclosing a court sealed copy of the Grant of Probate. Follow the instructions provided by the organisation e.g. complete any account closure or withdrawal forms sent to you after the death was registered.

Instruct the organisation to pay the funds directly into the executor's account or issue a cheque. The cheque should be made payable to the corresponding name on the executor's account otherwise it may present difficulties depositing the cheque with the bank.

Template letters to send to the asset-holding organisations are included in the resources section.

Dealing with the deceased's property Property owned in sole name

If the deceased owned a property in their name only, the property is inherited by the person(s) named in the Will. The executor(s) is faced with a decision to either:

- Transfer ownership of the property into the names of the beneficiary(s) of the estate. This is achieved by completing HM Land Registry Forms AP1, AS1 and ID1.

There is a fee payable to HM Land Registry on a sliding scale depending on the value of the property. The current scale of fees can be viewed online here:

<https://www.gov.uk/guidance/hm-land-registry-registration-services-fees>

- Sell the property. In this instance the property would be placed on the market for sale in the usual way and a conveyancing solicitor instructed.

Property owned in joint names

When two or more people own a property together, ownership is either under a legal arrangement called 'joint tenants' or 'tenants in common' (the use of the word 'tenants' here has nothing to do with renting a property).

Ownership as 'joint tenants'

If two or more people own a property together as 'joint tenants' it means that when one of them dies their share of the property automatically passes to the surviving joint owner(s), regardless of the terms of the Will.



To change the ownership of a property held as ‘joint tenants’, complete the Land Registry form ‘DJP’.

Once you have completed the form send it to the Land Registry with the supporting documents required and the property register will be updated to remove the deceased person’s name from the deeds (note that paper deeds are now mostly a thing of

the past, with the Land Registry now operating computerised records for all registered land).

Ownership as ‘tenants in common’

In this scenario, the deceased’s property does not pass automatically to the surviving joint owner(s), as it does with ‘joint tenants’. Their share of the property will instead form part of their estate to be distributed in accordance with the Will.

In these circumstances, a ‘transfer of equity’ may be required to reflect the change in circumstances. If this is the case I recommend you seek advice from a conveyancing lawyer.

If the property is mortgaged

If there is an outstanding mortgage, the mortgage lender will either require the repayment of the mortgage or ask the beneficiary to take over the mortgage (subject to the usual underwriting requirements).

If a sale of the property is taking place, the conveyancing solicitor will repay the mortgage from the proceeds of sale.

SETTLE DEBTS, LIABILITIES AND EXPENSES

As soon as the cash funds of the estate are released, whether direct from financial accounts or from the sale of stocks/shares/other assets, pay the deceased's debts as soon as possible.

In addition to existing debts, it is likely that 'testamentary' expenses (e.g. the fee for the Assisted DIY Probate service) will have arisen during the course of administration of the estate.

Please note that an executor cannot charge for his time in carrying out his duties, unless these form part of his usual profession or business e.g. solicitor or accountant.

The Executor's duty to pay debts

Although there is no legal time limit for the payment of debts incurred prior to the death of the deceased, there is a requirement to pay them with 'due diligence'.

It should be noted that no contrary provision in a Will can vary the duty to pay debts to creditors.

Keep a written record of all money leaving the Executor's account, together with receipts. This information will be required later when you prepare the estate accounts.

There may be estate liabilities that legally need to be settled that you don't know about at this stage. A common example is money owed to the Department of Work and Pensions in respect of overpaid state benefits e.g. State Pension.

These liabilities often 'come out of the woodwork' as a result of you placing the Section 27 Trustee Act Notice. If a company or organisation has money owing to them, they must forward details to the Executor within two months from the date the Notice was placed in the London Gazette. They cannot seek to recover money owing from the estate after this date.



FINALISE INCOME TAX AND CAPITAL GAINS TAX

Income Tax

Income tax is applicable to the deceased's estate according to the tax year in which income is received.

- It is possible to offset interest paid during that same tax year on any loans taken out to pay for inheritance tax against the income tax bill.
- Some of the estate's assets may have been taxed at source, i.e. before they are paid to the estate. This may be the case with the balance of a savings account, for example. However, other income such as rent will be paid directly to you without the deduction of tax. Where this is the case, it is taxable at the standard rate and no personal allowance is available to you.
- Each beneficiary must account in their own tax return for their share of the income of the estate earned between the death of the deceased and the distribution of the estate. However, the beneficiaries are entitled to credit for any tax paid on their share by you.
- If a beneficiary is not liable for income tax they can reclaim any tax deducted from their share.
- If a beneficiary is a higher-rate tax payer then they will be liable for the difference between standard and higher rates of tax on their share.

If you are unsure about how to deal with income tax seek professional advice from a tax accountant.

Capital Gains Tax

Capital gains tax is only applicable if it exceeds the set amount of exemption within a tax year (currently £3,000).

Capital gains up to the date of death

If the deceased has realised any assets in the tax year in which the death occurs, then details of these must be included on the deceased's income tax return up to the date of death. Pay any tax due from the estate.

Capital gains after death

Any gains made by the estate will also be liable for tax during the period of administration from the date of death to the end of the distribution of the estate. If the deceased's assets are sold for more than their value at the deceased's death, with a gain of more than the annual allowance, there may be capital gains tax to pay.

For further information about capital gains tax follow this link:

<http://www.hmrc.gov.uk/cgt/intro/gifts-inherit-divorce.htm#2>

If capital gains tax is likely to be payable by the estate, it is advisable to seek the advice of an accountant to minimise the risk of an error being made. The costs of such professional fees are a valid expense of the estate.



SETTLE PECUNIARY LEGACIES AND GIFTS

Pecuniary legacies represent a gift of money in the Will. Payment of pecuniary legacies need to be finalised by the end of the 'executor's year', i.e. 12 months after the death of the deceased, unless there are instructions to the contrary.

If a payment of a legacy is not made in this time, the beneficiary is entitled to interest payable on the legacy as compensation for late payment.

Specific legacies

The term 'specific legacy' refers to a particular item (or group of items) bequeathed by the deceased, which must be distinguishable in the Will from other similar items.

For example, the testator must state in the Will 'my diamond engagement ring' (and not just 'a diamond ring' if they owned more than one) should pass to the beneficiary, for it to be a specific legacy.

If an asset is not described accurately or with enough detail to positively identify it, the gift will not be valid.

Ademption

If a bequeathed item is no longer part of the deceased's estate, the gift will no longer be valid – unless a suitable replacement has been made to the estate.

This is known as 'ademption' and usually occurs due to the sale, gift, loss or destruction of an item following the creation of the Will.

Where this is the case, you should consider the following:

1. Is the gift a specific legacy, positively identified in the Will?

For example, the Will may state, 'my diamond engagement ring'. If the deceased sold the diamond engagement ring then the gift is adeemed.

2. Can the gift be paid out of the general fund?

For example, if the Will states '£1000 from my Santander savings account' is left to the deceased's daughter, but the Santander account has been closed, the £1000 could potentially be paid from elsewhere in the estate.

However, if the wording is ‘all of the savings in my Santander bank account’ is left to the daughter and the account has been closed, the gift would be classed as adeemed as the account no longer exists.

3. Has the gift been partially adeemed?

For example, a gift bequeathed of ‘2000 BP shares’ where the deceased subsequently sold 400 of these and so there are now only 1600 BP shares left. In this instance, the remaining shares would pass to the beneficiary.

Note that ademption does not apply after the death of the deceased. If an asset is lost or damaged after the date of death, the beneficiary is still entitled to the specific gift, or insurance proceeds if appropriate.

Legacies to minor beneficiaries

Where a bequest has been made to a beneficiary under the age of 18, you can only distribute the bequest to them (or their parent or guardian) if instructed to do so by the Will, or if the beneficiary is married or in a registered civil partnership.

Otherwise, the bequest should be retained in your name, or arrangements made for it to be paid into court, until the beneficiary comes of age.

Legacies to bankrupt individuals

No payment should be made to a beneficiary, or a creditor, who is bankrupt. Therefore, before distributing any assets (or paying any debts), it is your responsibility to confirm that this is not the case.

Searches can be performed for free, online,

at: <http://www.insolvencydirect.bis.gov.uk/eiir/IIRNameSearchMapIE.asp>

Alternatively, the Land Charges Registry will perform the appropriate searches for £2 each.

Gifts bequeathed to a bankrupt beneficiary should instead be made to their trustee.

Legacies to a person of unsound mind

If a beneficiary is of unsound mind, you should make any bequest to their appointed deputy or an attorney to the beneficiary.

Following the payment of the debts and liabilities, the residuary estate can be distributed to the beneficiaries.



CHECKS TO TAKE BEFORE DISTRIBUTING THE RESIDUARY ESTATE

Obtain Inheritance Tax clearance

If you have paid inheritance tax on the estate and no changes to the asset values need to be reported to HMRC complete form IHT30 and request a formal clearance before distributing the residuary estate.

This only applies if you have completed a full inheritance tax account using form IHT400. For excepted estates automatic clearance is granted after 30 days

of the form being submitted to the Probate Registry (so if you don't hear from HMRC within 30 days IHT clearance is obtained).

Check if Inheritance Tax relief can be claimed

Inheritance Tax on death is calculated on the value of assets at the date of death. If a property or shares are subsequently sold at a lower price, relief from IHT may be available. This effectively amounts to a refund on the excess tax paid.

This applies where:

- Inheritance Tax has been paid in the estate.
- A property is subsequently sold at a loss within 4 years of the date of death.

In this case HMRC form IHT38 should be completed and submitted to HMRC. To qualify the claim has to be within 7 seven years from the date of death.

- Shares are sold at a loss within 1 year of the date of death. In this case HMRC form IHT35 should be completed and submitted to HMRC. To qualify the claim has to be within 4 years from the date the shares were sold.

Claims against an Estate

A claim may be made against an estate, either by a creditor or an individual. Unless the claim is straightforward, e.g. by a previously unknown creditor where the debt is not disputed, always seek advice from a solicitor.

A claimant should submit the claim within 6 months of the date of the Grant of Representation.

This period of six months may be extended by court rule, but it is the claimant's role to pursue this extension and this will be only successful in exceptional circumstances.

Claims against an Estate

A claim may be made against an estate, either by a creditor or an individual. Unless the claim is straightforward, e.g. by a previously unknown creditor where the debt is not disputed, **always** seek advice from a solicitor.

A claimant should submit the claim within 6 months of the date of the Grant of Representation.

This period of six months may be extended by court rule, but it is the claimant's role to pursue this extension and this will be only successful in exceptional circumstances. The court will make its decision based on factors such as:

- The reasons for the delay.
- Whether the applicant has acted promptly.
- If distribution of the estate began before you were notified of the claim.
- Whether negotiations to settle the claim had commenced within the six month period.

A claim against the estate may be made by an individual under the Inheritance (Provision for Family and Dependents) Act 1975. Claims may be made by:

- A wife, husband or registered civil partner.
- A former wife, former husband or former civil partner who has not remarried or entered a subsequent civil partnership.
- Children of the deceased, including adopted children.
- Any person who was treated as a child of any marriage or civil partnership (current or previous) in which the deceased was party.
- Any person considering themselves to have been maintained substantially by the deceased materially before the death (this does not include payment of debts).

A common law partner, who cohabited with the deceased for a minimum of two years prior to the death, can make a claim without having to prove that the deceased was responsible for their maintenance.

If such a claim is made against the estate, you should seek immediate advice from a solicitor.



What Should an Executor Do If a Trust Is Created in a Will?

When a trust is created within a will, often referred to as a **testamentary trust**, the executor's responsibilities extend beyond the usual duties of administering the estate. The trust outlines specific instructions for managing and distributing certain assets, usually for the benefit of specific individuals (the beneficiaries). Here's a step-by-step guide on what an executor should do in such cases:

1. Understand the Terms of the Trust

The first step for an executor is to thoroughly review the Will, focusing on the section that establishes the trust. Key details to note include:

- **Who the beneficiaries are** (e.g., minors, dependents, or specific family members).
- **Who the trustee is**, as they will take over responsibility for managing the trust once the estate administration is complete.
- **The purpose of the trust**, such as providing for a child's education, supporting a spouse, or preserving assets for future generations.
- **The duration of the trust**, which could be until the beneficiaries reach a certain age or for the remainder of their lives.

Understanding these elements ensures the executor knows how the trust fits into the broader estate administration.

2. Identify and Safeguard Trust Assets

The executor must identify which assets are to be placed in the trust. This might include:

- Property
- Investments
- Savings accounts
- Personal property, such as valuable collections or heirlooms

It's crucial for the executor to **safeguard these assets** during the probate process. This includes maintaining insurance, keeping property secure, and ensuring any financial accounts are protected.

3. Transfer Assets to the Trust

Once the probate process is complete and all debts, taxes, and expenses have been settled, the executor must transfer the specified assets to the trustee. If the executor and trustee are different individuals, the executor must provide a full account of the trust assets to the trustee.

If the executor is also named as the trustee, they will continue to manage the trust in accordance with its terms.

4. Communicate with Beneficiaries

The executor should keep beneficiaries informed throughout the process, explaining how and when the trust will be funded. Clear communication helps to manage expectations and avoid potential disputes. Beneficiaries may want to understand:

- When distributions will begin.
 - How the trust assets will be managed.
 - Any conditions or limitations on their access to the trust.
-

5. Work with Legal and Financial Professionals

Given the complexity of trust administration, it's advisable for the executor to seek professional advice. This may include:

- **A solicitor** or estate attorney to ensure the legal obligations are met.
 - **An accountant** to help with tax filings, especially as trusts often have specific tax obligations.
 - **A financial advisor** if the trust involves managing investments or large sums of money.
-



6. File Any Required Tax Returns

Trusts have their own tax obligations, separate from the estate's taxes. The executor may need to file:

- The final tax return for the deceased.
- Tax returns for the trust, depending on its income or gains.

Properly handling tax matters is essential to avoid penalties or complications.

Administering an estate that includes a trust requires careful attention to detail and strict adherence to the Will's instructions. By understanding their responsibilities, safeguarding assets, and seeking professional assistance, executors can ensure the smooth establishment of the trust and protect the interests of the beneficiaries.

DISTRIBUTE THE RESIDUARY ESTATE

Prepare the Final Estate Accounts

The Executor is required to compile and provide accurate accounts of the estate. The financial information collated since the date of death needs putting into an organised report, to be signed by the Executor(s), and provided to the residuary beneficiaries of the estate (they don't need to be filed with any official organization).

The accounts should include the following areas:

- Assets at the date of death.
- Liabilities at the date of death.
- Income received during the period of administration.
- Changes in assets value where appropriate e.g. an increase in property value.
- Expenses incurred during the period of administration.
- Distribution of legacies and the residue to the beneficiaries.

Include any documents showing how you distributed money, property or personal belongings from the estate, for example:

- letters from HMRC confirming that you paid Inheritance Tax
- receipts showing debts paid, for example utilities bills
- receipts for your expenses from dealing with the estate
- written confirmation that 'beneficiaries' (anyone who inherited) received their share of the estate

Send copies of the final accounts to all beneficiaries.

Distributing the Residuary Estate

- The residuary estate refers to the net estate after payment of all legacies, tax, debts, administration expenses and funeral costs.



-
- Distribute the residuary estate as instructed by the Will, or in accordance with Intestacy rules where no valid Will exists.
 - Before making this final distribution, ensure that there are no outstanding liabilities.
 - Provide a copy of the final estate accounts to the residuary beneficiaries at the same time that they receive their inheritance from the estate.
 - The beneficiaries should sign a receipt acknowledging the settlement and approving the estate accounts. An example can be found in the resources section.
 - If a beneficiary is under the age of 18, a parent or guardian should sign for them. It is advisable to take professional advice in these circumstances.
 - Keep all paperwork for at least 12 years after the final distribution to the beneficiaries. If inheritance tax has been paid you should keep records for 20 years as HM Revenue and Customs (HMRC) can ask to see your records up to 20 years after Inheritance Tax is paid.

You must keep copies of any:

- Will
 - copies of signed Inheritance Tax forms and supporting documents
 - records showing how you worked out the value of assets in the estate, for example an estate agent's valuation
 - documents showing any unused Inheritance Tax threshold that can be transferred to a surviving spouse or civil partner
 - final accounts

And breathe a big sigh of relief!

If you have got this far and completed all of the relevant tasks then I congratulate you on completing a successful DIY Probate.

If you need anything at any point, or you've got any questions or issues that we can help with, please don't hesitate to contact me and my friendly team on 0116 2795044 or email support@berkeleyweston.co.uk

About the Author



DIY Probate Expert Phil Weston is an award winning author, speaker, legal practitioner and qualified financial advisor (non-practising). He is the founder of Berkeley Weston Ltd, a publishing and legal services business.

His best selling Probate Guides have enabled thousands of readers to successfully complete Probate, saving readers over £20 million in legal fees.

Phil studied Law at De Montfort University, Leicester. During his corporate career he acted as a consultant for Bradford & Bingley Building Society, Britannic Insurance and The Law Society.

Phil started his legal practice Berkeley Weston Ltd in 2004, specialising in helping individuals complete probate on their own.

If you are interested about becoming a private client you can contact Phil and his team on 0116 2795044 or by email to phil.weston@berkeleyweston.co.uk

Recent client feedback for Phil:

"I really cannot thank you enough for the excellent hard work you did dealing with Probate and my mum's estate. Nothing was too much trouble, you gave endless superb support and did a lot of extra work to make sure we weren't under any additional pressure. I cannot recommend you highly enough. Your future clients can be totally assured from day 1 that using your probate service is not only fantastic value but does everything your website says it does! I am so pleased we used you. You are truly a gentleman professional who really cares about his clients and produces that special level of service that is needed in times of difficulty and stress. Please pass this on to your future clients." **John Eckersall, Cheshire.**

"I started using Phil's company in 2009 so as to assist us in helping families make the right decisions & choice of company in dealing with their loved ones estate at a time of need. I have always found Philip to be very attentive to my clients' wishes and afforded them the time to go through the process of understanding fully the legalities of Probate. If



you are looking for someone with these qualities then Philip & his company are the right choice.” **Gary Clugston**, Harold White Funeral Directors, London

“Hi Phil, I would like to say how pleased I have been with your service. You have acted quickly and accurately to ensure a fast efficient conclusion to my late father’s affairs. Additionally your communication has been first class. Thank you.” **Mike Pitson**, Guildford

“Phil, many thanks for all your support during my application for Probate. Your comprehensive collection of example letters and pre-filled application form examples were a great help, & I must say one of the best investments I have made. The whole process took around 4 relaxed weeks to completion. Kind regards.” **Patrick J Donovan**, London.

GLOSSARY OF TERMS

Abatement

A reduction of the amount of legacies or debts or claims where an estate is insufficient to pay all in full. This is normally made pro rata.

Accumulation

The retaining and re-investment of interest.

Adeem/ademption

Either the complete or partial extinction of a specific bequest as a result of the deceased having gifted, sold or otherwise disposed

of it during his lifetime, other than by revocation.

Administering an Estate

When a person dies, there will often be money, property and assets that belonged to that person which are held in his name. These are referred to as his “Estate”.

The term “administering an estate” refers to the task of collecting in the money, property and assets of the deceased person, paying his debts and funeral expenses, sorting out any outstanding tax affairs, and paying what remains to his heirs (by reference to his Will if he left a Will).

Administration period

The period between the date of death and the date of the close of administration.

Administrator

The legal representatives of a deceased person who has died without a Will. They are usually the closest relatives of the deceased.

Agreed value

The probate value as formally agreed by HMRC Inheritance Tax where inheritance tax is payable. HMRC may seek verification of the values from the District Valuer.

Apportionment

The division of income in proportionate shares between certain beneficiaries, calculated on a daily basis.



Appropriation

The transfer of an asset , instead of its sale proceeds, on account of a legacy or share of residue.

Attorney

A person appointed by another to act in his place.

Beneficiary

A person entitled to receive funds or property under a Will or intestacy.

Bequest

A gift of chattels/assets in the Will.

CGT

Capital Gains Tax.

Clearance certificate/certificate of discharge

A certificate issued by HMRC Inheritance Tax releasing a person liable to inheritance tax from paying further inheritance tax.

Codicil

A written amendment to a Will.

Deed of Variation

Enables beneficiaries of a deceased's estate to alter the distribution of the Will or intestacy rules.

Disbursement

A payment made to a third party.

Estate

All the assets and liabilities of a deceased person- such as property, shares, cash, savings and investments as well as outstanding debts.

Estate accounts

Accounts recording the financial transactions during the administration period.

Excepted estate

An estate where no inheritance tax is due if certain criteria are fulfilled.

Executor

A person appointed by a Will or codicil to administer the estate.

Executrix

A female Executor.

Gift

A transfer of money or assets.

Grant of Representation

Another term by which a Grant of Probate is known. If the deceased died without leaving a valid Will then the type of Grant of Representation required is called a Grant of Letters of Administration.

Inheritance tax (IHT)

The tax paid by the estate of the deceased when that person dies.

Intestacy

The situation where a person dies without making a Will. The administration of “intestate” estate is governed by the Administration of Estates Act 1925.

Intestacy- Rules of Intestacy

These are the rules that set who will inherit the Estate of someone who has died without leaving a valid Will.

Intestate

If person who has died without leaving a Will they are said to have died “intestate”.

Issue

Children, grandchildren or remoter lineal descendants.

Joint Tenants



If two or more people own a property together as 'joint tenants' it means that when one of them dies their share of the property automatically passes to the surviving joint owner(s), regardless of the terms of the Will or intestacy rules. (See also "Tenants in Common")

Legacy

A Legacy is gift of personal property made by a Will.

Legacy- Pecuniary Legacy

A Pecuniary Legacy is a gift of money made by a Will e.g. "I give John Smith the sum of £500".

Legacy- Specific Legacy

A Specific Legacy is a gift of a specific item of property made by a Will e.g. "I give John Smith my gold watch".

Letters of Administration

If the deceased died "intestate" i.e. leaving no Will, or if the Will is invalid for any reason, the Grant is called a "Letters of Administration" and is sometimes referred to as "simple administration".

Nil rate band

The value of assets which a deceased person can leave to friends or family without having to pay any inheritance tax.

Personal chattels

Essentially personal effects. Does not include any chattels used at death for business purposes and any money or securities for money.

Personal Representative

A Personal Representative is a person who administers an Estate. The expression "Personal Representative" can mean either an Executor or an Administrator.

Power of attorney

Formal deed by which one person appoints another to act on his behalf or represent him.

Renouncing probate

The act whereby a named Personal Representative signs a legal document which cancels his/her appointment from the start.

Residuary Beneficiary

The person entitled to the whole or part of the deceased's estate after the payment of all debts, funeral and testamentary expenses and legacies.

Residuary estate/residue assets

What remains of the estate after payment of all debts, legacies and all taxes and expenses.

Specific legacy

A particular part of a deceased's estate.

Tenants in Common

If 2 or more people own property as 'Tenants in common' it means the deceased's share of the property does not pass automatically to the surviving joint owner(s), as it does with 'joint tenants'. Their share of the property will instead form part of their estate to be distributed in accordance with the Will or the intestacy rules if there isn't a Will. See also 'Joint Tenants'.

Testate

Dying, leaving a Will.

Testator

A deceased person who left a Will.

Trustee

Person who is holding assets on trust.

Vested interest

Right to immediate or future entitlement.