



Your Practical Guide to ... The Probate Process

We know that dealing with probate matters can be complicated and sometimes stressful.

This guide will help you to prepare.

Introduction

Probate is the administration of a person's money, belongings, accounts, policies and so on (together known as the "Estate") following that person's death.

If there is a Will, this will be done in accordance with a Will.

If there is no Will, this will be done in accordance with the laws of "intestacy".

This guide is relatively brief. We are unable to cover the vast majority of issues faced in probate matters in these few pages. Probate matters can be very complicated and may present difficulties unforeseen at the outset.

This guide should not be relied on for legal advice; it is an introduction only.

Probate Clients

After a bereavement, only certain categories of people may instruct a solicitor to deal with the Estate. Therefore, it is important the solicitor has details of the deceased's family.

People who a solicitor may act for include:

1. The Executor of the Will, and, if there is more than one, all the Executors together;
or
2. If there is no Will (or if no Executors are appointed by a Will), close relatives.

Close relatives include a spouse or civil partner, if one survives, and, if not, the deceased's children. If there is none of the above, the solicitor may act for siblings or grandchildren of the deceased.

Time Frame

Because of the nature of the process, most probates take between 4 and 10 months. By law, the Executors have a year to distribute the Estate before interest starts to accrue.

There are four stages to the Probate Process.

Stage 1: Investigation

The first stage in any probate is the careful sorting of the deceased's papers. These may be found by relatives in a disorganised state.

Once the papers have been sorted they may be handed to a probate professional. He or she will check the papers and begin the process of corresponding with the various institutions (banks, building societies, life assurance companies, utilities, pension providers and so on), asking questions relating to the value of the account, the terms of any payout and requesting particular details regarding inheritance tax so that the Estate can be administered properly.

The professional will collate all information electronically. Only when all accounts, policies, pensions and so forth have been obtained can the professional begin to prepare the various inheritance tax forms and other documents which are required to apply for the Grant of Representation (see below). It is vital that all of the deceased's affairs are known at this point.

Time: Stage 1 tends to be the longest stage of any probate, typically taking many months, particularly for larger or more complicated Estates. It is difficult to predict accurately the timescale at the outset. On average, it is between 3 – 6 months.

Stage 2 – Grant of Representation

The Grant of Representation is an official, stamped document which proves that the Personal Representatives have power to deal with the deceased person's Estate. In the vast majority of cases, a Grant is required by banks, assurance companies and so on before they will release funds.

If there are Executors in a Will applying for the Grant, it will be called a Grant of Probate. Otherwise it will be called a Grant of Letters of Administration.

Once all information has been collated and analysed, the probate solicitor can prepare the various documents required for the application for Grant of Representation, including:

1. HM Revenue & Customs inheritance tax returns (for many Estates, these are many dozens of pages long); and
2. The Oath for Executors or Oath for Administrators.

The Oath must be sworn by the Personal Representatives in front of an independent solicitor, much in the same way as one would swear in court.

If inheritance tax has to be paid, this must be paid and a stamped receipt from HM Revenue & Customs received before the Grant can be issued. Often, this creates cash flow difficulties, and we can advise if necessary.

Once all the documents are ready, the application for Grant can be submitted to the appropriate District Probate Registrar, along with a fee (usually around £50).

Time: it usually takes a little over a month to prepare and swear the Oath and HMRC forms and apply and receive the Grant from the Probate Registry.

Stage 3: Collecting Assets and Distributing the Estate

When the Grant has been received, the probate professional can begin to collect all the money and assets.

Banks, building societies and life assurance companies usually require sight of the Grant, so we will send the Grant to them.

The deceased's money is then (in most cases) paid direct to our client account. As soon as possible we pay all the deceased's debts and recoup our charges.

Finally, we distribute the Estate in accordance with the Will (if any) or with the laws of Intestacy. If there are any assets to be transferred or sold (such as a house) this can be done.

The people who receive the money and assets are called "beneficiaries".

Stage 4: Winding up the Estate

The final stage of the probate process is to wind up the Estate.

We do this by distributing funds to the beneficiaries (see above) and accounting to our clients with a set of full Estate Accounts. The accounts show every item of income and expenditure, and if interest has accrued on money in our client account we pay this out accordingly.

Costs

Many solicitors charge according to an hourly rate or by a percentage of the Estate's value, such as 1.5% or 2%.

Banks may charge up to 4% of the value of the Estate.

Costs can vary according to the charging policy of these professionals and according to the size and complexity of the Estate.

We would be pleased to discuss our pricing with you.

What to do next

If you are a spouse, civil partner or other relative of a loved-one who has died, or you are an Executor in a Will, please feel free to contact us at Info@PintoPotts.co.uk.

Or call us at 0800 316 4434

Call us as soon as you decide to go ahead so that we can help you through the process.