

## **Probate FAQ**

- *If I make a Will, will my family still need to apply for Probate?*

The Probate threshold can be anywhere between £5,000 and £50,000. That is because every financial institution has its own threshold with regards to how much money it will release without seeing a Grant of Probate. To assist you in working out whether your family are likely to need to apply for Probate consider the following:

1. **What is the value of your Estate?** If this is less than £10,000, you may not need to apply for Probate.
2. **Do you own any assets jointly?** Assets which are held in joint names pass by way of 'survivorship'. The rule of survivorship provides that where property is held between two or more people as joint tenants, the interest of the deceased person passes directly to any surviving joint tenant/s. This is the case regardless of what is written in a person's Will.

- *Do I need to use a Solicitor to apply for Probate?*

To apply for Probate, you will need to apply to the Probate Registry. As part of that process, you will also need to determine whether the Estate is liable for Inheritance Tax. This is a complicated process and if mistakes are made this can cause long delays. If errors are made, an Executor can also be held personally financially liable for any loss which results as a breach of their duties.

- *Who can apply for Probate?*

If you are named in someone's Will as an Executor, you may make an application for Probate. Up to 4 people can apply for Probate. If there is no Will appointing Executors, there is a strict order of priority for family members who can apply.

- *How long Will Probate take?*

Typically, obtaining the Grant of Representation takes 6-8 weeks to be issued by the Probate Registry once the application has been submitted. Once Probate has been received, this can then be used to sell any assets and collect in funds. This is known as the Estate administration.

It is difficult to be precise as to timescales for the completion of the administration of an Estate, simply because we are dependent upon third party financial institutions to provide us with information. For an 'average' Estate where there is no inheritance tax to pay this can take anywhere between 6-12 months to finalize. For more complex matters, this can take several years.

- *What information do I need to apply for Probate?*

You will need the date of death valuations for all of the deceased's assets together with details of all liabilities.

- *What if no Will was left? Is this the same as applying for Probate?*

If there was no Will, the Estate is distributed in accordance with Intestacy laws. That means that the deceased's next of kin usually inherits the Estate and as the person who stands to

inherit, it is their responsibility to apply for Probate. Instead of a Grant of Probate, the authority to deal with the Estate is referred to as a Grant of Letters of Administration.

- *What if a Will was left but can't be found?*

It can be difficult to locate a will that may have been made many years ago. If a search has been carried out and no Will can be found, an application can still be made to the Probate Registry for the Grant of Letters of Administration. The Estate would however be distributed under Intestacy Laws.

If you are able to locate a copy of the Will, this *may* be accepted by the Probate Registry provided there is no evidence to suggest that it has been revoked by the deceased. This is a very lengthy and costly process with no guarantee of success.