



**ASSURED**  
PROBATE SERVICES  
*Responsible Estate Administration*

*Part of the APS Legal and Associates group*



**aps**  
Legal & Associates

**PART OF THE SIMPLYBIZ GROUP**



*National by structure - local by nature*



# What is probate?



Probate is the estate administration process that takes place after a loved one has passed away. It is the role of an Executor to administer the estate, but without professional guidance probate can be a daunting task. This is where we can help.



## **Assured Probate Services is a valued arm of the APS Legal and Associates group.**

**S**ince the launch of our Probate arm in 2012, our specialist team handles over 100 cases a year. Assured Probate Services is one of the largest and most respected names in the industry, with around 300 qualified probate associates and over 500 willwriting and estate planning associates working across the country.

Our reputation is founded on our ethos of responsible and reliable estate administration. We understand that our clients reach out to us at what is often a difficult time, which is why our chief concern is to ensure first-class service throughout the probate process.

Having been wholly acquired in 2014 by Simply Biz group, who oversee and support more than 10,000 financial advisers, we are proud to say that we work in a regulated way in what has traditionally been a fragmented industry.



**ASSURED**  
PROBATE SERVICES  
*Executor and Probate Service*

## What's the role of an Executor?

When someone dies, their Will appoints the executor or executors who are to be responsible for the administration of their estates. Executors are then charged with carrying out the wishes of the deceased as they are expressed in the Will. There is much more to this role than simply distributing estate assets. At this stage, it is common for executors to feel daunted by the size and complexity of the task at hand, or to be unsure as to how to proceed correctly.

## What if there is no Will?

Sometimes a person passes away without leaving a valid Will. Even though there is no document to appoint an executor, however, the estate still requires administrating. In this case, applications to administrate the estate must be made by an interested party to the local Probate Registry. There will be a fee for this application.

Once administrators have been appointed, they share many of the

duties of executors. However, if there is no Will indicating to whom assets are to be distributed, administrators have to follow statutory intestacy rules. These define who is entitled to assets from the estate, and how much they are entitled to.

Whether there is a Will or not, many people feel more comfortable appointing experienced professionals to act on their behalf to ensure that the estate is managed correctly.

For further information please speak to your Assured Probate Services executive. Alternatively please visit [www.aps-legal.co.uk](http://www.aps-legal.co.uk) or contact us on **0845 430 4600**.

# Commonly asked questions

## 1. How long does it take to administer an estate?

As each estate is different it can be difficult to provide an accurate estimate as to when an estate will be finalised. What follows are only to be taken as rough guidelines.

When administering estates, executors have what is known as an “executors’ year”. This refers to the year from the date of death during which executors are not obliged to pay anything other than tax and funeral obligations. A modest estate may be fully distributed before the end of the executor’s year. A large estate may well continue for a second or third year before the administration is finalised. It may take time for a house and/or other properties to be sold, for example. The holding of foreign or business assets, the existence of ambiguities in the will, and/or there being missing beneficiaries are all instances where further delays might arise.

On the whole, simple non-taxable estates will normally take between 6-9 months to complete. Taxable estates often take between 12-24 months.

## 2. What is an executor and what are their duties and responsibilities?

An executor is nominated by the Will of a deceased person and charged with administering that person’s estate. It is common to have more than one executor. Where there is no valid Will, representatives will need to be appointed by the courts. In this case they are properly referred to as administrators. Both executors and administrators are referred to under the umbrella term, “personal representatives”.

The duties of a personal representative are considerable and various. Personal representatives bear legal responsibility for administering the estate properly; if something goes wrong, executors and/or administrators can face unlimited personal liability to the beneficiaries or creditors of the estate.

# Commonly asked questions

Personal representatives' duties begin at the point of death, at which point they are charged with locating the Will and securing estate assets and properties. It's vital to ensure that insurance and utility payments are continued, and that any locks on uninhabited properties are changed, for example.

Once these immediate securities are in place, the process of administering the estate can begin. The exact duties will vary from estate to estate, but on the whole the administration of an estate can generally be broken down into the following steps:

- ▶ Collect details and values of the assets owned by the deceased including gifts made
- ▶ Complete appropriate tax forms
- ▶ Pay IHT (if applicable)
- ▶ Apply for Grant of Probate
- ▶ Receive Grant of Probate
- ▶ Place Trustee Act notices (adverts)
- ▶ Collect assets
- ▶ Pay debts
- ▶ Finalise income tax status of the estate
- ▶ Finalise estate accounts
- ▶ Executors sign off on estate accounts/APS distribute estate accounts to residuary beneficiaries if we are acting as sole executors
- ▶ Pay Will legacies
- ▶ Distribute remaining estate assets according to Will

Note that HMRC require Inheritance Tax liabilities to be settled before executors acquire the Grant of Probate. In some circumstances, this will require executors to arrange to pay Inheritance Tax before they are able to access estate monies.

# ...continued

### **3. Can Executors get paid from the estate for the work they do?**

No, not unless they are professionals. They can, however, charge the estate for reasonable out of pocket expenses.

#### **4a. What if an executor does not want to act?**

An executor can renounce their appointment provided that they have not intermeddled in the estate.

#### **4b. What happens if all executors want to renounce?**

If all executors wish to renounce then the task of administering the estate would fall to the residuary beneficiaries of the Will or creditors to administer the estate.

It is also possible to appoint a professional such as Assured Probate Services to act on behalf of personal representatives who are unwilling or unable to act themselves.

### **5. I'm a personal representative. How can I appoint APS to act on my behalf?**

To obtain a quote from Assured Probate Services, please contact either a local associate or our head office (contact details can be found on the back of this booklet). As our fees are based on the work required to administer an estate rather than a flat percentage of the estate value, we require some basic information about the estate itself before we can issue a quote: this will be arranged either by a local associate or on their behalf by Assured Probate Services.

Once the quote is accepted, Assured Probate Services will administer the estate on your behalf.

# Commonly asked questions

## **6. How involved do I have to be in the process?**

APS will handle all aspects relating to administration of the estate, unless there are any areas of the estate administration that you wish to handle yourself. In all cases, your associate will keep you updated every step of the way; you may also contact APS directly to speak to your allocated case manager.

## **7. What is a Power of Attorney?**

Unless we are named in the Will as an executor, we will require nominated executors to sign a Power of Attorney allowing us to act on their behalf throughout the estate administration process.

Assured Probate Services use a Power of Attorney in order to act on behalf of executors. A Power of Attorney provides the executor the ability to transfer their executive powers to Assured Probate; this means that the executor will not need to visit the Probate Registry for an interview or swear an oath or sign a contract of sale if there is property to sell. This can help to speed up the administration process as Assured Probate can sign requisite documentation (e.g. closure forms and transfer forms) without having to send these to the executor(s).

## **8. What is an Oath?**

The Oath is a 'promise' that the information that has been proved regarding the estate is true to the best of the executors' knowledge.

## **9. Assured Probate Services are named as executors on the Will. Can I instruct APS to renounce?**

Yes, we will always renounce executorship when this is requested, provided the Will or Will instruction does not expressly state that we should not.

## **10. Why does Assured Probate need the original Will?**

The original Will is required by the Probate Registry as part of the application for a Grant of Probate: copies will not be accepted. The original Will also needs to be 'marked' (i.e. signed) by the personal representative(s) before it is sent to the Probate Registry. The Registry will then retain this document—which becomes public record—and issue a copy, attached to the Grant, to the applicant(s). The copy Will be sealed with the court seal.

## **11. What is the Grant of Probate/Letters of Administration?**

These are the official court documents that are required to administer an estate provided it contains assets of a certain value. If the deceased left a will, then executors will need to apply for a Grant of Probate. If the deceased died without leaving a valid will, then the administrators of the estate will need to apply for Letters of Administration.

In both cases, there will be a court fee. Where the estate is taxable, personal representatives will need to have a completed IHT421 to certify that any IHT liabilities have been settled before applying for the Grant/Letters.

## **12. When is a Grant of Probate necessary?**

As a general rule, an estate which has over £5,000 requires the executors to obtain a grant (Grant of Probate, or Letters of Administration if the deceased died without a valid Will). However, every bank/building society is different. Executors may be able to close accounts holding up to £50,000 with just the Will and the original death certificate, in some cases. Other banks or building societies will demand a Grant to release funds from accounts holding as little as £5,000.

If the deceased owned a house in their sole name then a Grant of Probate is always required in order to sell the property or transfer to a beneficiary. Similarly, if the property has been placed into a trust as instructed by the deceased's Will then a Grant of Probate will always be required.

# Commonly asked questions

Note that most banks and building societies will require personal representatives to prove that they have obtained the Grant of Probate/Letters of Administration before they will release estate monies. For this reason, it is advisable to obtain multiple copies of this document from the Probate Registry (there will be a small cost involved at around £1 per copy).

## **13. Can personal representatives settle the funeral bill before obtaining the Grant?**

Yes. The institution in question will provide a cheque payable to the funeral director on receipt of the original bill.

## **14. When can we sell a house or property?**

While a house can be placed on the market at any time, completion of the sale cannot be done until the Grant of Probate is obtained. If a jointly owned property needs transferring into the survivor's sole name then a Grant will not be required for this specific purpose as a Land Registry form DJP can be used to remove a joint owner who has passed away.

## **15. What are Trustee Act notices?**

These are adverts, placed in both The Gazette (formerly The London Gazette) and a paper local to any areas in which the deceased held property, asking for creditors of the deceased to declare themselves to personal representatives. Section 27 of the Trustee Act 1925 allows for personal representatives to discharge their liability to unknown creditors provided that these notices have been correctly placed and that a period of 3 months from the date of the advert is observed before the distribution of any estate assets occurs.

## **16. Is a tax return always required?**

Income details will need to be submitted to HMRC. In most cases this can simply be done in writing, for more complex estates, a full tax return may be required.

## **17. Will I have an Inheritance Tax (IHT) bill to pay?**

Personal representatives need to settle any Inheritance Tax liabilities from estate funds before the Grant of Probate/Letters of Administration can be acquired. Where an estate is taxable, personal representatives will need to ascertain exact figures for all assets at the date of death in order to complete the requisite tax forms.

Some estates are “excepted” from Inheritance Tax, so there will be no IHT liability to pay. This applies either where an estate is left wholly to exempt beneficiaries (a spouse or civil partner, or qualifying charities or political parties), or where its total value is less than the nil rate band (currently £325,000). Note that as of 6th April 2017 there is also an additional residence nil rate band, which may be available in some cases – see below for more details.

Inheritance Tax regulations are complicated, so it’s best to seek professional advice if you’re not sure.

## **18. What is the residence nil rate band (Residence Nil Rate Band)?**

This is an additional tax-free threshold that might be available to estates provided that a residential property is being left, via the Will, to certain lineal descendants such as children, grandchildren, or stepchildren. Executors of qualifying estates will have to apply for the residence nil rate band before this provision can take effect.

# Commonly asked questions

Like the basic nil rate band, this tax relief can be transferred from a previously deceased spouse or civil partner's estate if it was unused or only partially used. Accordingly, the whole "transferable" residence nil rate band will be available where the deceased died on or after the 6th April 2017—when this legislation came into effect—and their spouse or civil partner predeceased them before this date.

The rules defining which estates will qualify for this tax relief are notoriously complicated. HMRC guidance advises seeking professional advice where the residence nil rate band might apply to a complex estate. If you think that this additional threshold might be available then it is advisable to seek professional instruction as to how to proceed.

## **19. Which tax forms are required by HMRC?**

Where an estate is non-taxable, HMRC will require a completed form IHT205. For an estate to qualify as non-taxable, its value must be less than or equal to the excepted estate limit (also known as the nil rate band, which as of 2018 is currently £325,000), or twice the excepted estate limit where the transfer of an unused nil rate band is being claimed from a predeceased spouse or civil partner (claiming the transferable nil rate band will require completion of form IHT217 in addition to form IHT205). Please note that these thresholds may be higher where the additional residence nil rate band is applicable. Estates passing wholly to a surviving spouse or civil partner, or a qualifying charity, will also be exempt from IHT.

A completed form IHT400 is required where the estate is taxable. This document also instructs which of the further twenty-three supplementary forms for taxable estates will be required.

## **20. When will I see my inheritance?**

Executors should only distribute to beneficiaries once they have obtained clearance from HMRC stating that there are no more monies owed to or from the deceased's estate. For taxable estates, it can take from 3-12 months for HMRC to review an estate and confirm that Inheritance Tax has been correctly and completely paid.

For all estates, executors need to perform bankruptcy checks on all beneficiaries to ensure that it is the beneficiary, and not their creditor, that is due to inherit from the estate. If this precaution is not observed then executors may be liable to creditors of beneficiaries who received assets directly.

Executors will also need to prepare and reconcile estate accounts before distributing assets to beneficiaries.

Once these tasks are complete, executors can pay estate monies to beneficiaries. Because of the variable nature of each estate, however, it is difficult to give a useful estimate.

In cases where there is a particular need for a beneficiary to receive money earlier than expected, Assured Probate Services can arrange for a payment to be made before the estate is finalised. This is called an interim payment.

# The Assured Probate process

1. Arrange an initial meeting with one of our associates.
2. At the initial meeting, provide the associate with basic information relating to the estate.
3. Receive a quotation based upon the work required to administer the estate, not a flat percentage of the estate value.
4. Accept the quote.
5. At a second meeting, provide the associate with more detailed estate information including the following documentation:
  - ▶ Death certificate
  - ▶ Original Will
  - ▶ Signed Terms of Business
  - ▶ ID for executors
  - ▶ Any documentation relating to the estate (shareholdings, bank account details etc)
6. Assured Probate Services begin administration of estate. This can be broken down into the following main steps (though please note that each estate will have its own unique requirements depending upon its arrangement and the terms of the Will):
  - ▶ Obtain date of death values for estate assets
  - ▶ Obtain any property or other valuations

- ▶ Pay IHT (if applicable)
- ▶ Apply for Grant of Probate
- ▶ Receive Grant of Probate
- ▶ Place Trustee Act notices
- ▶ Collect assets
- ▶ Pay debts
- ▶ Finalise estate accounts
- ▶ Executors sign off the estate accounts/APS distribute estate accounts to residuary beneficiaries if we are acting as sole executors
- ▶ Pay Will legacies
- ▶ Distribute remaining estate assets according to Will

You will be kept updated on the progress of the estate either through the associate or through direct contact with Assured Probate Services. Please note that administration of an estate can be a lengthy and time-consuming process: it is not unusual for a simple estate to take 6-9 months to administer and for taxable estates to require an administration period of 12-24 months.

7. Once the estate is distributed, Assured Probate Services return all documentation provided for the second meeting.
8. APS closes case file and retains this in storage for our records.



**ASSURED**  
PROBATE SERVICES  
*Responsible Estate Administration*

*Part of the APS Legal and Associates group*

**Associate's name here**

**T** 0000 000 000 | **M** 0000 000 000 | **E** your.email@assured-probate.co.uk  
**www.yourwebsiteaddress.co.uk**

**Your address here**

Address Line 1, Address Line 2, Address Line 3, Address Line 4, Postcode



Assured Probate Services is part of the APS Legal and Associates group, and a trading style of APS Legal & Associates Ltd  
Registered Office: The Workshop Turbine, Shireoaks Triangle Business Park, Coach Close, Worksop, Nottinghamshire, S81 8AP.  
Registered in England No. 5627636 | APS Legal & Associates Ltd is a Member of the Institute of Professional Will Writers  
APS Legal & Associates Ltd complies with the TSI Approved IPW Code of Practice | © 2019 APS Legal & Associates Ltd. All rights reserved.