



VAULT PRIVATE CLIENTTM

Step-by-step guide to Probate

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Beyond Law Group's Specialist
Private Client Practice

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There are a lot of stages to dealing with a loved one's estate and acting as an executor/administrator of a Will or under the rules of intestacy. Note – Executors of a will and administrators of an estate are known collectively as Personal Representatives “PR’s”.

It is the PR's responsibility to ensure that the probate process is carried out diligently and correctly in order to obtain the Grant of Probate and settle the inheritance tax to HMRC. At VAULT we understand that many individuals have never dealt with probate before and have limited or no knowledge or understanding of the requirements to deal with an estate. The peace of mind and closure of instructing our trusted solicitors to help you through the process, strongly overtakes any legal or emotional negative implications of getting it wrong. VAULT are here to walk you through every step below and make dealing with the estate as straightforward and stress-free as possible.

The Probate Process: Step-by-step

Step 1: Taking the Initial Steps Post-Death

- Registration of the death: completing a Tell us Once Survey online is the first steps to take within five days at the local registry office to obtain the death certificate.
- Funeral: You will need to search and locate a Will (we advise checking paperwork, the property or local solicitors). The funeral can then be arranged in accordance with the wishes outlined in the Will or funeral plan. The funeral invoice can be settled directly from the Deceased's bank account.
- Security and insurance: It is crucial to ensure the assets are maintained and insured correctly to avoid being personally liable to any creditors or beneficiaries of the estate. Insurance providers should be updated regarding the status of the property occupation, car insurance and possible buildings/contents insurance.
- Consider whether the Deceased died testate or intestate? If there was a Will, take steps to locate the original and take legal advice to clarify the terms and meaning of the Will. If there is no Will, we can advise you on who is most entitled to act as PR or if necessary, instruct one of our industry-leading network of genealogists to verify a family tree to locate missing beneficiaries. Once you have taken advice as to the validity and meaning of the Will, consider taking legal advice for any potential claims against the estate or understanding of trusts set up under the terms of the Will. There are now strict trust registration requirements that need to be adhered. Our trust specialists will be able to guide you further.
- Notifying third parties: take steps to notify all known third parties, including banks, utility companies, accountants, investment managers and life insurance providers that you are aware of by providing them a copy of the death certificate.

Step 2: Valuation of the Estate

- Identifying assets and arranging formal valuations: valuing the estate is the most important aspect of the probate process, PRs have responsibility to ensure the correct value is reported to HMRC if required. Specific assets, such as shares in trading companies, agricultural land, property and shareholdings all require specialist-chartered valuations for probate purposes. VAULT have a wide network (visit our additional services page for more details) with industry leading providers to ensure that the valuations are correctly done. Your solicitor can ensure that all deadlines are met to avoid interest and penalties. This highlights the importance of taking advice and acting sooner rather than later.
- Identify liabilities: creditors of the estate will soon come to light and contact you as the PR. You will need to ensure they are aware of timescales and you have valued the amount outstanding at the date of death for the HMRC reporting.
- Asset search: it is common for our loved ones to keep their lives private and it can be difficult to ascertain of all their assets. We can assist you to put in place an asset search which notifies over 400 providers, such as banks, organisations to check whether any policies/accounts were held with them. This includes searching for digital assets which are more common in recent day.

This is the investigation stage and the most time-consuming part of the probate process. It is crucial to maintain transparency with beneficiaries/creditors throughout. Thorough investigations should be made into the Deceased's assets and may take a considerable amount of time to be in a position to move on to preparing the IHT return.

Step 3: Completing the Probate Application and IHT Return

- Preparing the inheritance tax return: once the estate has been valued, you will be in a position to report the estate to HMRC and settle any outstanding IHT (if required) by completing Form IHT400. The complex forms are still required if no inheritance tax is payable, but the estate does not qualify as an excepted estate. The form must be submitted within 12 months of the date of death and interest will be payable after six months. There are schedules that accompany the main IHT400 application form, the ones that are required will depend on the assets that make-up the estate. Our team have vast experience with preparing the forms and are here to assist you to take the burden off getting it right.
- Applying for probate/letters of administration: the PR will then be in a position to apply for the Grant of Probate (if there is a Will) or Letters of Administration. See our FAQs on Grants for further advice. For more complex estates, there may be oaths for administration and statutory declarations that are required. Our team of Solicitors will be able to advise you on what is required for your probate application.
- International elements: estates that include assets in multiple jurisdictions or where the deceased was domicile outside the UK will require affidavits of evidence or a reseal of a grant from another jurisdiction. See our international estates page for further information if this applies to your case.

Step 4: Administering the Estate

- **Collecting in assets:** once the Grant has been issued, the PRs can begin collecting in and encharging assets. If you are being represented by a Solicitor, this can be sent to the client account with detailed accounts being kept throughout. Alternatively, an executor bank account would need to be opened. We can refer you to a trusted panel of accountants/advisors to ensure that you collect in assets at suitable times and report any income or capital gains that arise.
- **Paying off liabilities:** as the funds and assets are collected in, the PRs can begin settling outstanding liabilities in the specific order of entitlement prior to distribution to the beneficiaries.
- **Settling legacies outlined in the Will:** any legacies or outright gifts to individuals or charities should be settled in priority.
- **Claiming any refunds on IHT:** our solicitors can advise you on any available reliefs that arise from sale of assets at a loss that may result in a refund of tax. It is common for this to be missed without help of a legal representative and can save costs to the estate.
- **Compliance with income and capital gains tax reporting:** there are tax requirements to settle outstanding tax that arises in the period of administration. This may through a simple format (paying a cheque) or if the estate qualifies for a complex estate, a formal tax return will need to be completed. We can assist you with preparing the returns or refer you to a specialist accountant to ensure all estate tax is validly settled and reported.
- **Maintaining accounts and distribution:** PRs must keep accurate records which are available upon request to beneficiaries of the estate which set out the values at date of death, closure values and money due to be paid out. For estates that receive dividends or consist of portfolios/corporate structures, this can be complex and we strongly advise you take legal advice to assist with preparing the accounts.
- **Protect and don't forget!:** protecting your position as PR is one of the most important steps pre-distribution. There are various steps you can take such as notices in the London Gazette, insurance policies or waiting six months to distribute the estate to protect from claims from creditors or beneficiaries in the future.
- **Distribution of the estate:** the PRs are then able to carry out the distributions in accordance with the Will/Rules of Intestacy. There is a strict order of entitlement under intestacy and distributions must be made in proportion with the legislation. The estate can then be paid to the entitled beneficiaries.

How long does probate take?

We aim to be in a position to apply for the Grant for simple, straightforward estate within 2-3 months, however this can vary depending on various factors, such as assets in the estate, third party responses or identifying beneficiaries that are outside our control. Our promise is to be transparent, reliable and ensure that there are no barriers to communication between your legal advisor and PRs at any time to know where things stand with the application. Probate applications are subject to the court timescales which will vary from time to time, currently between 4-12 weeks.

We would need to understand the deceased's particular circumstances in order to advise you fully and provide accurate timescales.