

Probate and letter of administration explained

A grant of probate is a legal document, which gives the executor the authority to administer the estate of the deceased person. You may have to apply for a grant of probate if you are the named executor in someone's will.

If no executor is named in the will or if the executor is unwilling to act, an administrator will need to be appointed. Who can act as the administrator of the estate is defined by a fixed order of priority. The administrator will have to apply for a Grant of Letters of Administration, which authorises them to act as administrator. A Grant of Probate and a Grant of Letters of Administration may also be referred to as a Grant of Representation.

Is a Grant of Representation always needed?

A Grant of Representation is not always necessary. For example, if all of your assets are held jointly with another (e.g. a spouse or civil partner) all of your assets will pass automatically by survivorship.

Another example is where the estate consists of a small amount of money, the organisation that holds the money can release it without sight of a grant. The threshold for releasing small amounts of money differs for each organisation.

Certain life insurance policies and pension schemes may pay money direct to your nominated person(s) in which case, sight of a Grant will not be necessary as the monies will not pass via your estate. Finally, if an estate is insolvent a Grant is not necessary.

For more information on probate and letters of administration, whether it's necessary for the estate you need to administer and assistance on how to apply, contact our specialist solicitors today.

Why consider legal representation as an executor or administrator

If you are unfamiliar with the duties of the executor or administrator, we recommend seeking our advice.

Depending on the will, the estate and the beneficiaries, carrying out your duties as an executor or administrator can be complicated and time consuming. While you are allowed to pay yourself any expenses back from the estate, you are not entitled to a reimbursement of your time. However, you can use legal representation to assist you. Our professional fees can be paid from the estate.

Our legal experts can assist you with tasks such as:

- Applying for a Grant of Probate or a Grant of Letters of Administration.
- Identifying and collecting in assets of the estate and identifying and paying any outstanding debts of the estate
- Considering and settling the tax position of the estate
- Communicating with the beneficiaries and distributing according to the will.
- If there is no will, distributing the estate according to the rules of intestacy.