**Probate and inheritance**

**1. Overview**

When someone dies, you’ll need to get the legal right to deal with their property, money and possessions (their ‘estate’).

**England and Wales**

You may be able to apply for a ‘grant of representation’ - known as ‘probate’.

You can apply yourself or use a solicitor or another person licensed to provide probate services.

Most cases follow the same basic process.

1. Check if there is a will - this normally states who sorts out the estate. If there’s no will the next of kin can apply.
2. [Apply to get a ‘grant of representation’](https://www.gov.uk/wills-probate-inheritance/applying-for-a-grant-of-representation) - this gives you the legal right to access things like the person’s bank account.
3. Pay any Inheritance Tax that’s due.
4. Collect the estate’s assets, for example money from the sale of the person’s property.
5. Pay any debts, for example unpaid utilities bills.
6. Distribute the estate - this means giving any property, money or possessions to the people entitled to it (‘beneficiaries’).

A grant of representation can sometimes be known as a ‘grant of probate’, ‘letters of administration’ or ‘letters of administration with a will’.

**When a grant of representation may not be needed**

You don’t normally need a grant if the estate either:

* passes to the surviving spouse or civil partner because it was held in [joint names](https://www.gov.uk/wills-probate-inheritance/property-and-bank-accounts), for example a savings account
* doesn’t include land, property or shares

You should contact the organisation holding the money, for example the bank or building society. They may ask for proof of death, for example the death certificate after the death has been [registered](https://www.gov.uk/after-a-death/register-the-death).

Each financial institution has its own rules - you may still need to apply for a grant.

**Scotland and Northern Ireland**

This process is called [‘confirmation’](https://www.scotcourts.gov.uk/taking-action/dealing-with-a-deceased%27s-estate-in-scotland) in Scotland and [‘grant of probate’](http://www.nidirect.gov.uk/applying-for-probate-in-northern-ireland) in Northern Ireland.

**2. If the person left a will**

You can apply for a grant of representation if you are the ‘executor’ of the will - the person named to deal with the estate.

If more than one executor is named in the will, the [probate application form and guidance notes](https://www.gov.uk/wills-probate-inheritance/applying-for-a-grant-of-representation) explain what to do.

You should [contact your local Probate Registry](https://courttribunalfinder.service.gov.uk/) if either:

* no executor is named in the will
* none of the named executors are willing or able to apply

The Probate Registry will explain what you need to do.

An executor does not necessarily get any of the estate.

**3. If the person didn't leave a will**

An ‘administrator’ is the person who deals with the estate if there is no will.

You can usually apply for a grant of representation to be the administrator of the estate if you are the person’s next of kin, for example their spouse (or civil partner) or child.

You can apply if you had separated from the person but you were still married or in a civil partnership when they died.

You cannot apply for a grant of representation if you’re the partner of the person but weren’t their husband, wife or civil partner when they died. You are also not automatically entitled to any of your partner’s estate.

The law decides [who inherits the estate if there is no will](https://www.gov.uk/inherits-someone-dies-without-will).

Read the [rules for inheritance in other EU countries.](https://e-justice.europa.eu/content_succession-166-en.do?clang=en)

**4. Applying for a grant of representation**

You can apply for a grant of representation yourself or use a solicitor or another person licensed to provide probate services.

There are 4 steps to follow.

1. Complete a probate application form.
2. Complete an Inheritance Tax form.
3. Send your application.
4. Swear an oath.

**Complete a probate application form**

You can either:

* fill in the [probate application form PA1](http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=735) yourself
* call the [Probate and Inheritance Tax helpline](https://www.gov.uk/government/organisations/hm-revenue-customs/contact/probate-and-inheritance-tax-enquiries) to get help filling in the form

Complete [form C1](https://www.gov.uk/government/publications/inheritance-tax-confirmation-c1) to apply for [confirmation](https://www.scotcourts.gov.uk/taking-action/dealing-with-a-deceased%27s-estate-in-scotland) in Scotland.

**Complete an Inheritance Tax form**

You must [work out how much the estate is worth](https://www.gov.uk/valuing-estate-of-someone-who-died). Depending on its value, there may be [Inheritance Tax](https://www.gov.uk/inheritance-tax) to pay.

You must also fill in the appropriate [Inheritance Tax form](https://www.gov.uk/valuing-estate-of-someone-who-died/forms) - even if you think no tax is owed.

You may get a [penalty](https://www.gov.uk/government/publications/compliance-checks-penalties-for-inaccuracies-in-returns-or-documents-ccfs7a) if you send inaccurate information on your Inheritance Tax form.

If there’s tax to pay, you normally have to pay at least some of it before a grant of representation is issued to you.

You can claim the tax back from the estate or the beneficiaries, if you pay it out of your own bank account.

**Send your application**

Send your application to your local [Probate Registry.](https://courttribunalfinder.service.gov.uk/search/postcode?aol=Probate)

You should include:

* the probate application form PA1
* the Inheritance Tax form
* an official copy of the [death certificate](https://www.gov.uk/after-a-death/register-the-death)
* the original will and 3 copies - and any codicils (additions or amendments to it)
* the application fee of £215 - a cheque made payable to HM Courts and Tribunals Service (there’s no fee if the estate is under £5,000)

From May 2017 probate fees will be changing - find out [how much you’ll need to pay](https://www.gov.uk/government/consultations/fee-proposals-for-grants-of-probate).

You can pay for extra copies of the grant (50p each) - this means you can send them to different organisations at the same time.

**Swear an oath**

The probate office will send you an oath and details of how to arrange an appointment. You’ll need to swear the oath at either:

* the office of a commissioner for oaths (usually a solicitor)
* a local probate office

The oath is a promise that the information you’ve given is true to the best of your knowledge.

You should get the grant through the post within 10 working days of swearing the oath.

If it’s not possible to issue a grant, the Probate Service will explain why in writing.

**5. Once the grant's been issued**

You should send a copy of the grant to organisations that hold the dead person’s assets, eg their bank. They should release any assets so you can transfer them into the executorship account.

**Pay debts**

Pay off any debts the person had once you’ve secured all their assets. This could include:

* outstanding bills
* tax owed

As the executor or administrator you have a legal responsibility to pay off any debts or outstanding payments before distributing the estate.

[Place a notice in The Gazette](https://www.thegazette.co.uk/wills-and-probate/place-a-deceased-estates-notice) to give creditors the chance to claim anything they’re owed. This will protect you from responsibility for any debts.

You can use money from the estate to pay any solicitor’s fees as part of the probate process.

**Distribute the estate**

Once all debts and taxes have been paid, you can distribute the estate as detailed:

* in the will
* by the law [if there’s no will](https://www.gov.uk/inherits-someone-dies-without-will)

After this you can prepare the estate accounts. These must be approved and signed by you and the main beneficiaries.

Beneficiaries may have to pay [Income Tax](https://www.gov.uk/income-tax) if the assets they inherit generate income for them.

**6. Stopping a grant of representation**

You can stop the issue of a grant of representation. This is called a caveat - it stops probate from going ahead, for example because of a dispute over who can apply for a grant of representation or whether a will exists. A caveat lasts 6 months.

**How to enter a caveat**

You must be 18 or over to submit a caveat. You can do it yourself, or [use a solicitor](https://www.gov.uk/find-a-legal-adviser) or another person licensed to provide probate services.

Write to or visit any [Probate Registry](https://courttribunalfinder.service.gov.uk/search/postcode?aol=Probate) to enter a caveat.

The Probate Registry can’t give legal advice.

You’ll need:

* a signed [application for a caveat (form PA8)](http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=2257)
* the full name, date of death and last address of the person who’s died
* a home address in England or Wales

It costs £20 to enter a caveat.

**7. Property and bank accounts**

The deceased’s bank accounts are part of the estate.

Money in a joint bank account automatically passes to the other owners. You still have to include this money as part of the estate when you work out [Inheritance Tax](https://www.gov.uk/inheritance-tax).

What happens to the person’s property depends on how it was owned.

**Joint tenancy**

If the property was owned under a ‘joint tenancy’ (‘joint owners’ in Scotland), the deceased and the other owner both own the whole of the home. Ownership passes to the surviving owner.

**Tenancy in common**

If the property was owned under a ‘tenancy in common’ (‘common owners’ in Scotland and ‘coparceners’ in Northern Ireland), 2 or more people owned the home either in equal shares or a defined percentage.

The person’s will (or the law [if there is no will](https://www.gov.uk/inherits-someone-dies-without-will)) decides who inherits their share.

**Owned outright**

The will (or the law if there’s no will) decides who [inherits property](https://www.gov.uk/tax-property-money-shares-you-inherit) that is owned outright by the deceased.

Contact the mortgage company, [check the Land Registry](https://www.gov.uk/search-property-information-land-registry) or get legal advice if you are unsure how a property’s owned - you may need to [update the property records](https://www.gov.uk/update-property-records-someone-dies).

**8. Search for probate records**

You can search for a probate record (for example a will or grant of representation) in England and Wales online or by post.

**Search online for a probate record**

[Search online](https://www.gov.uk/search-will-probate) for probate records for people who died in or after 1858.

You can order copies of probate records online. They cost £10 each - you can pay by debit or credit card.

It can take up to 10 working days for you to receive your documents. Working days do not include weekends or public holidays.

A new probate record will appear online approximately 14 days after a grant of representation has been issued.

**Search for a probate record by post**

Download and fill in form [PA1S - Application for a search (copies of grants and wills).](http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=739)

It costs £10 for a search, which includes a copy of the grant of representation and the will (if there is one).

The address you need is on the form.

You should get a response within 4 weeks.

**Get a ‘standing search’ for the next 6 months**

You can also apply for a 6 month ‘standing search’ if the death was in the last 6 months.

This means that if a grant of representation is issued in the next 6 months, you’ll receive a copy.

You can extend the standing search after 6 months.

**Contact the London Probate Department**

The will might be stored at the [London Probate Department.](https://courttribunalfinder.service.gov.uk/courts/london-probate-department)

You must provide proof of the death and that you’re the executor named in the will. You might still be able to get the will if no executors were named.

**Scotland and Northern Ireland**

There’s a different procedure in [Scotland](http://www.nrscotland.gov.uk/research/guides/wills-and-testaments) and [Northern Ireland.](http://www.proni.gov.uk/)

Last updated: 6 April 2020

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