

A GUIDE TO PROBATE AND ESTATE ADMINISTRATION

This guide sets out how we can help you, from a legal and financial perspective, when somebody dies. We know this can be a very upsetting and difficult time for you. We are licensed to provide probate services in England and Wales so can help you during this stressful time.

We are bound by the ethical guidelines of the Institute of Chartered Accountants in England and Wales (ICAEW). We accept the instruction to act for you on the basis that we will act in accordance with these guidelines.

As the firm is licensed for non-contentious probate services by the ICAEW, there is access to the Legal Ombudsman and the ICAEW Probate Compensation Scheme.

What is probate?

Probate is a term used generically to refer to the process of dealing with the estate of a deceased person. The people who are legally entitled to deal with the estate of the person who has died are known as 'personal representatives'.

If there is a Will naming executors, and they are willing and able to act, they become the personal representatives. They will need to obtain a grant of probate from the Probate Registry, which will enable them to fulfil their duties.

If there are no executors willing or able to act, or if there is no Will, the personal representatives will be called 'administrators', and they will need to obtain a 'grant of letter of administration' which gives them authority to act. To keep things simple we will use the term probate to cover all situations.

The probate process ensures that relevant taxes are calculated and paid, money owing to creditors and owed by debtors is collected, and, if a Will has been made, the deceased's remaining assets are distributed to the beneficiaries in accordance with his or her wishes.

Who will carry out this work?

Craig Little and Roseanne Bennett are both authorised by the ICAEW to undertake probate and estate administration. Profiles for Craig and Roseanne can be found at <https://greaveswestayre.co.uk/meet-the-partners>.

They are supported by Mary Lapping.

Craig Little or Roseanne Bennett will supervise all of the work undertaken.

What will we do?

The work we will be undertake falls into three main steps:

Step one – from date of death to Grant of Probate/Representation

1. send notifications of death to financial institutions, Government organisations, utilities and household contacts;
2. ascertain whether there is any entitlement to bereavement allowances or benefits;
3. finalise the income tax and capital gains tax position of the deceased at the date of death;

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4. review the Will, codicils and legacies to ensure that they are valid and prepare affidavits where necessary;
5. ascertain who the beneficiaries are;
6. identify the composition of the estate and ascertain whether a grant is needed;
7. value the estate;
8. prepare the inheritance tax return;
9. prepare the papers for application for a grant of probate;
10. place statutory notices of death in the London Gazette and any relevant local papers (if required);
11. ensure the appropriate oaths are prepared and taken;
12. obtain the grant;

Step two – administration of estate

1. take control of and gather in the assets of the estate;
2. pay the debts of the estate including tax liabilities;
3. finalise the estate tax;

Step three – winding up the estate

1. pay legacies and transfer the balance to the residuary beneficiaries; and
2. prepare estate accounts.

During steps one to three, we will provide regular updates to ensure you are kept up to with the progress we have made. We welcome two-communication to ensure you feel supported throughout the probate and estate administration process.

What will you need to do?

You will provide us with all papers, information and explanations relevant to the purpose and compilation of the probate application and the administration of the estate and you will disclose to us all relevant information in full.

You will provide us with a brief family tree and up to date names and contact details for all beneficiaries.

You are responsible for ensuring that, to the best of your knowledge and belief, the financial information you provide us with, is accurate and complete.

You are responsible for informing us of anything that might indicate that there is any contentious probate action to be taken. If a matter becomes contentious you may need to employ a solicitor to deal with the contentious matter. We will not be able to work on the estate until the contention has been cleared.

What will we charge?

Our fees will be based on the time taken which will be dictated by the complexity of the work involved.

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Our chargeout rates are as follows up to 31 March 2024:

- Craig Little/Roseanne Bennett £280/hour
- Mary Lapping £130/hour

Once we have an outline of the deceased's affairs and assets/liabilities, we will be happy to provide an estimate of the time required and the corresponding cost to undertake Steps one to three. We do not base our fees on a % of the Estate assets.

Vat is charged at the standard rate on our fees.

How long will the work take?

Due to the nature of the work, and dependent on the complexity of the estate and the requirements of the Will, it may take up to two years to complete and in more complicated circumstances longer. We would anticipate that a timeframe of 6-12 months is commonly achieved in our probate cases. In all cases, you will be informed of what is going on and we will ensure you are updated on progress.

If inheritance tax is payable by the estate, there are two deadlines which you need to be aware of:

6 months after the date of death, any inheritance tax (IHT) due is payable, for example, for a date of death in January 2022, any IHT due will be payable by July 2022. Late payment of IHT will subject to interest.

12 months after the date of death, IHT return (if required) must be made to HMRC.

Help us to give you the best service

We are committed to providing you with a high quality service that is both efficient and effective.

If you would like to talk to us about how we can improve our service to you, or if you are unhappy with the service you are receiving, please let us know by contacting the Head of Legal Practice, Craig Little. We will consider carefully any complaint that you may make about our probate or estate administration work as soon as we receive it and will do all we can to resolve the issue. We will acknowledge your complaint within five business days of its receipt and endeavour to deal with it within 8 weeks. Any complaint should be submitted to us by letter.

If we do not deal with your complaint within this timescale or you are unhappy with our response you may of course take the matter up with our professional body the ICAEW (icaew.com/complaints) and the Legal Ombudsman. Complaints to the Legal Ombudsman should be made within six years of the act or omission or within three years of you becoming aware of the issue, and in either case within six months of our written response to your complaint to us. The contact details for the Legal Ombudsman are:

- Letter: Legal Ombudsman, PO Box 6806, Wolverhampton, WV1 9WJ
- E-mail: enquiries@legalombudsman.org.uk
- Telephone: 0300 555 0333

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Professional rules and statutory obligations

We will observe and act in accordance with the bye-laws, regulations and code of ethics of ICAEW and will accept instructions to act for you on this basis. In particular you give us the authority to correct errors made by HMRC if we become aware of them. We will not be liable for any loss, damage or cost arising from our compliance with statutory or regulatory obligations. You can see copies of these requirements in our offices. The requirements are also available online at icaew.com/en/membership/regulations-standards-and-guidance.

We confirm that we are accredited for the reserved legal activity of non-contentious probate. When conducting probate work, we are required to comply with ICAEW's Probate Regulations which can be accessed at www.icaew.com/en/membership/regulations-standards-and-guidance/reserved-legal-services.

Quality control

As part of our ongoing commitment to provide a quality service, our files are periodically reviewed by an independent regulatory or quality control body. These reviewers are highly experienced professionals and are bound by the same rules of confidentiality as our principals and staff.

When dealing with HMRC on your behalf we are required to be honest and to take reasonable care to ensure that your returns are correct. To enable us to do this, you are required to be honest with us and to provide us with all necessary information in a timely manner.

For more information about 'Your Charter' for your dealings with HMRC, visit www.gov.uk/government/publications/your-charter. To the best of our abilities, we will ensure that HMRC meet their side of the Charter in their dealings with you.

The Provision of Services Regulations 2009

We are licensed by ICAEW to carry out the reserved legal activity of non-contentious probate in England and Wales. Details about our probate registration can be viewed at icaew.com/probate, under reference number C005352083.

Our professional indemnity insurance is in layers with the primary insurers being American International Group UK Ltd C/O Howden UK Group Ltd, 1 Creechurch Place, London, EC3A 5AF. The territorial coverage is worldwide excluding professional business carried out from an office in the United States of America or Canada and excludes any action for a claim brought in any court in the United States or Canada.

ICAEW Probate Compensation Scheme

As we are licensed for the reserved legal activity of non-contentious probate, in the unlikely event that we cannot meet our liabilities to you, you may be able to seek a grant from ICAEW's Probate Compensation Scheme. Generally, applications for a grant must be made to ICAEW within 12 months of the time you become aware, or reasonably ought to have been aware of the loss. Further information about the scheme and the circumstances in which grants may be made is available on ICAEW's website: www.icaew.com/probate.