



KINGS COURT TRUST
YOUR PARTNER THROUGH PROBATE

Your complete **estate administration** guide

An in-depth look at the estate administration process



Introduction

Estate administration is the process by which Personal Representatives (i.e. an Executor if there is a Will or an Administrator if there is no Will) deal with a person's legal and tax affairs after they've passed away. This includes the distribution of any assets or personal possessions to beneficiaries as well as paying any outstanding debts. There can be quite a few steps involved when administering an estate, some more complex or time-sensitive than others. This guide aims to walk you through all the stages of estate administration so you are better informed about the process, what is involved and where assistance may be required from a professional.

In this guide, we will cover each step, including:

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1. Gathering all information

The first document that should be sought should be the Will. Not only would this name one or more individuals as Executor(s), but it may also indicate some assets that were owned by the deceased, give direction on where they should go and in what proportion. It often states property, significant personal possessions, savings, insurance policies and any pensions owned. It may also provide direction for who should care for any children under the age of 18.

Once the Will is retrieved, it is important to gather other vital documents that will be required for the following steps, such as the medical and birth certificates (these are required to register the death), coroner's reports (if necessary), bank account statements, debt statements and insurance policy documents.

2. Applying for the Grant of Probate

It's important to note that probate may not always be required. If your loved one held assets in joint names, for example, property, bank accounts, shares, etc., these assets normally transfer to the surviving owner, but there are exceptions. Typically, a financial institution will require a Grant of Probate to release any funds solely owned, and only if the value exceeds their probate threshold, which varies across institutions.



In Scotland, the 'Grant of Probate' is referred to as 'Confirmation'. To complete the probate application in Scotland, a C1 form is required, along with other forms (C5, C5SE or IHT400) depending on the make-up of the estate. Probate to release any funds solely owned, and only if the value exceeds their probate threshold, which varies across institutions.

To complete the probate application in England and Wales, a PA1P (if there is a Will) or a PA1A (if there is no Will) form needs to be completed. You may also need to submit an Inheritance Tax (IHT) form to HM Revenue & Customs (HMRC).

Upon completion of the application, all details, including the death certificate, must be sent to the Probate Registry. This can be done online if you have the original Will, death certificate and full estate value. Original documents must still be sent in the mail after the online submission.

3. Closing bank accounts and paying debts

Once all bank accounts and debts are known by the Executor, the respective financial institutions must be notified of the death.

Bank accounts:



Any funds within a bank account make up part of the estate value. In order to have those funds released, the bank will need to be notified of the death so the account can be frozen and ultimately closed. The bank may require the Grant of Probate (if there is a Will) or a Grant of Letters of Administration (if there is no Will) depending on how much money is in the account. The bank will also ask for a copy of the death certificate as well as proof of who has the authority to freeze the account (i.e. who is the Executor named in the Will or who can demonstrate a close relationship with the deceased to act as Administrator if there is no Will). Once the bank is satisfied, they will proceed to freeze or close the account.

Debts:



Debts, including unpaid utility bills, mortgage payments, credit card bills, personal loans and tax and benefit debts, are usually paid out of the estate. If there are insufficient funds in the estate to cover the debts, then the estate is classified as insolvent, where the rules of bankruptcy apply. Otherwise, all debts must be paid and settled before any remaining funds are transferred to beneficiaries. If the debt is joint, in most scenarios, the outstanding debt is passed to the surviving owner(s). If the debt is secured, such as property, it can be slightly complicated as it will depend on whether the asset was held as joint tenants or tenants in common (refer to #7 for further explanation of what these mean).



4. Ensuring the family tree information is correct

In order to prepare for distribution of assets, it is important to have a list of all potential beneficiaries, particularly if no Will exists. In some cases, the family tree is rather easy to construct. However, with the variety of family make-ups and dynamics in today's society, including multiple marriages, formal and informal adoption, children born outside relationships or cohabiting (unmarried) couples, these all need to be identified and/or accounted for when drafting a family tree. If not, misdistribution can occur which can result in future claims against the estate. Executors/Administrators are legally liable for any mistakes made and could be faced with a negligence claim in the future.



5. Dealing with shares and investments

Dealing with shares and investments after death is a time-sensitive process. The value as of the date of death is the figure required by HMRC to accurately calculate whether IHT is due, and if IHT is due, a written valuation of all shareholdings is required. If any overseas shares or assets are owned, there are the additional tasks of dealing with red tape, additional paperwork, differing terminology and potential tax issues to repatriate the asset(s).



6. Redirecting post

It's a simple but important step. In order to redirect post after a loved one passes away, a Special Circumstances form must be filled out and dropped off at a Post Office location or applied for via mail. Unfortunately, this cannot be done online as proof of Power of Attorney or a death certificate will be required. This can be done for up to four years and not only prevents unwanted attention at their last address, but can also aid in getting access to recent statements or learning about unknown assets or debts that will need to be administered as part of the estate.

7. Selling property and assets

Property:

If property forms part of the estate, the first step will be to look at how it was owned.



Sole owned

Sole owned property is transferred according to the terms in the Will, following any special instructions or provisions it states. If there are no instructions, the Executor/Administrator can either transfer the property into the names of the beneficiaries or sell the property and distribute the proceeds to the beneficiaries as part of their inheritance. Executors have full authority to decide whether a property should be sold or transferred, however, their decision must be dependent on what is in the best interest of the beneficiaries. If there is no Will, then the property is distributed according to the Rules of Intestacy.



Joint tenants

Property which is owned as joint tenants means that it is owned jointly with one or more other persons, with no one having a specified share. As a result, when one of the owners passes away, the property is automatically passed to the surviving co-owner(s). The only further step required by the Executor is to notify the Land Registry of the death so the name can be removed from the title deeds. This can be done via a Deceased Joint Proprietor form and the death certificate.



Tenants in common

Unlike joint tenants, if a property is owned as tenants in common, each owner owns a specific share of the property. As a result, their share will be dealt with following the process previously outlined as the sole owner of their share.

Shares:

As mentioned above, shares need to be dealt with promptly after death. If there is an increase in the value between the date of death and the date of sale of the shares, Capital Gains Tax may be payable on the difference (i.e. the gain). However, if there is a decrease in the value between the date of death and the date of sale, some IHT paid on the value calculated on the date of death may be reclaimed. This can be complex and there are conditions to be met, so we do recommend seeking professional advice for clarification and assistance.

Other assets and belongings:

Again, this should be distributed according to the Will, which will likely leave instructions for any valuable assets. However, if others are discovered or there is no Will, they can be sold as the Executor(s) or Administrator(s) sees fit.

8. Dealing with Inheritance Tax forms

IHT forms can be difficult to navigate. Let's take a closer look at some of the more common ones:

1

Form IHT205 (for deaths up to and including 31/12/2021):

This form confirms no IHT is payable on the estate and must always be completed in order to tell HMRC that no IHT is payable.

It will confirm:

1. The overall estate value is under the £325,000 threshold (or under the £650,000 threshold if your loved one inherited an estate from a pre-deceased spouse or civil partner).
2. That the estate is an 'excepted estate'. This means that the estate is valued at less than £1 million and left to a surviving spouse/civil partner, charity or organisation that makes it exempt from an IHT payment.

Excepted estates (for deaths on or after 01/01/2022):

Changes by HM Courts and Tribunal Service now allow for an application of a Grant or Letters of Administration without submitting an Inheritance Tax return as long as certain conditions are met:

- The estate value is under £325,000 (or £650,000) if some or all of the transferable nil rate band is available from a pre-deceased spouse or civil partner, and no Inheritance Tax is payable.
- No residential nil rate band is being claimed.
- The gross estate value is less than £3 million and passing to a spouse, civil partner, or charity.
- Gifts made prior to death do not exceed £250,000.
- Assets in a Trust created before death do not exceed £250,000.

Asset and liability values as at the date of death still need to be reported. If the criteria above is not met, an IHT400 submission is required.

2

Form IHT400:

This form must be completed if IHT is payable and, consequently, it is much more detailed. Before completing the IHT400, you will need an IHT reference number and payslip. This is obtained by completing form 422 or applying for it online. The IHT400 must be completed within a year of the date of death; however, any interest owed is payable after six months so shouldn't be delayed.

3

Form IHT402:

This form is used to claim any unused portions of the nil rate band from a pre-deceased spouse or civil partner.

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What is the nil rate band?

This is the threshold above which IHT is payable on an individual's estate. The threshold is currently at £325,000 which means that the deceased can pass on up to £325,000 of wealth tax-free. Married couples and civil partners are entitled to double the allowance to £650,000 before tax is payable.



9. Completing Income Tax work

Typically, an estate must pay out any tax owed before paying beneficiaries their inheritance. Since the deceased may have paid too much or too little income tax prior to passing away, HMRC needs to be notified as soon as possible so they can make any necessary adjustments.

Using the government's Tell Us Once service, most major government organisations are notified and can start arranging the next steps with the Executor/Administrator. This includes HMRC and the Department of Work and Pensions who can process any outstanding tax, benefits and entitlements. HMRC may advise whether a self-assessment tax return is required on behalf of the deceased as this will depend on their circumstances. If required, the Executor/Administrator will need to have all bank account information, work or pension payslips or business records (if self-employed).

This could be complicated depending on the deceased's situation, so seeking advice or hiring a professional could alleviate the stress of completing this.



10. Dealing with Capital Gains Tax

Capital Gains Tax is a tax on any profit received when something is sold. This could be on property or shares, for example. If an asset or property is sold during the probate process and has had an increase in its value since the individual has passed away, then it may be subject to Capital Gains Tax. The tax would be calculated on the increase, not the value, once it is sold. The estate doesn't have to pay any Capital Gains Tax on the deceased's property or assets that were sold before they passed away.



11. Contacting all people due to inherit

This is an important step that the Executor or Administrator is responsible for. If there is a valid Will, this will be used as a guide of who the beneficiaries are. However, if they have passed away without a Will (i.e. intestate), the Rules of Intestacy must be followed to determine who will benefit from the estate... and it can get tricky for a couple of common reasons:

- Missing beneficiaries: with migration, multiple marriages, informal or formal adoption, blended families, etc., family structures may not be as straightforward as they may initially seem. Sometimes people due to inherit may go missing or simply be unknown by the individual administering the estate.
- Dissatisfied family members: due to the Rules of Intestacy, it is not uncommon for someone truly close to the deceased to feel like they did not receive what they deserved or left out altogether. This could lead to a claim against the estate. In any scenario, it is important to notify any potential beneficiaries as soon as possible to ensure enough time is given to respond to questions about the estate, to find missing beneficiaries or deal with any claims.

If the Executor or Administrator incorrectly distributes assets or does not pay a rightful beneficiary, they are personally liable to repay them, so it is not a task to be taken lightly.

12. Producing estate accounts

Estate accounts are a record of all the money and assets that were entered into the estate and were paid out. Although there are many templates for this online, an estate account usually includes a summary of any terms in the Will, a breakdown of all assets and liabilities (e.g. any property, cash, investments, debts), tax information, a balance sheet or capital and income, any administrative expenses, as well as how much was paid to all beneficiaries. It must be prepared at the end of the administration process by the Executor or Administrator and only residual beneficiaries can gain access to review the estate accounts.

How **Kings Court Trust** can help you

Kings Court Trust is an estate administration specialist and can take care of all the steps involved in handling your loved one's affairs. Our unique service means that you can leave the challenging and time-consuming tasks to us. We will handle everything, giving you the time and space to reflect, remember and move on.



We're experts in estate administration. It's all we do, all day, every day.



We'll take the legal and financial burden off the Executor's shoulders.



You'll be given a clear price upfront.



We'll pay your inheritance quickly.



You'll receive a personal service with a dedicated point of contact.



Most importantly, we always go the extra mile for our families.



My thanks to the team at Kings Court Trust, you handled a delicate situation professionally and compassionately, and I appreciate your dedication to your service. I would recommend the service to anybody. Allow yourself the time to focus on what it is that you need to do, and allow a professional company to relieve you of a lot of stress by dealing with the family estate, you will be thankful that you did.

Richard, TrustPilot review, 2020



Get in touch with us today

 0300 303 9000

 kctrust.co.uk

 info@kctrust.co.uk



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