

## **Probate:**

When a person dies, someone has to deal with their affairs. This is called 'administering the estate'.

### *If the person has left a Will*

If the person has left a will, the Will usually names one or more people to act as the Executors of the Will - that is the people to administer the Estate. If you are named as an Executor of a Will, you may need to apply for a Grant of Probate.

The Grant of Probate is the official document which Executors may need to administer the Estate. It is issued by the Probate Registry.

### *If there is no Will*

If there is no Will (this means a person has died "intestate"), the process is more complicated. The Administration of Estates Act 1925 sets out who can act as administrator - that is who has the legal right to deal with the affairs of the person who has died. The administrator is usually a close relative of the person who has died, if there is such a relative. There can be more than one person with an equal right to deal with the Estate

Anyone who has this right can apply to the Probate Registry for what is known as a Grant of Letters of Administration. This is the official document which allows Administrators to administer the Estate.

Where the person who is to benefit from the Estate is a child, the law requires that more than one person must act as administrator.

### *When a Grant of Representation is needed*

A Grant of Representation is not always needed. For example, if the person who died has left less than £5000 in total or owned everything jointly with someone else, a Grant may be unnecessary.

In other cases, some financial organisations, such as banks, may agree to pay funds to a Personal Representative without a Grant of Representation. This is commonly known as the Small Estate's procedure. It is always worth asking as this may achieve a saving in costs.

A Grant of Representation will normally be needed when the person who has died left:

- more than £5000;
- stocks or shares;
- a house or land; or
- certain insurance policies.

### *How to get a Grant*

We at Athi Law LLP can assist you by applying for the Grant of Representation on your behalf. Our staff will be more than happy to give you a costs estimate for the work involved.

### *Responsibilities of Personal Representatives*

Personal Representatives are responsible for making sure that the Estate is administered correctly. Where a Will has been left, the Personal Representative must make sure that the wishes of the person who has died are followed. If there is no Will, the Personal Representative must follow the rules of intestacy as set out in the Administration of Estates Act 1925. We at Athi Law LLP can, if necessary, explain the rules to you.

### *Inheritance Tax*

Personal Representatives are also responsible for finding out if Inheritance Tax is due as a result of a person's death. If this tax is payable, the Personal Representative has to make sure that it is paid.

The liability to pay Inheritance Tax will depend on the following:

- The value of the property and belongings of the deceased at the date they died;
- The value of any gifts which they gave before dying and who the gifts were given to;
- The value of certain Trusts from which the dead person benefits; or
- Which people benefit under the Will or under the rules of intestacy (known as the beneficiaries).

Our staff at Athi Law LLP can advise you on the above.

### *Likely timescales*

Finalising the affairs of someone who has died can take a long time. It can take up to one year and perhaps longer if matters are not straightforward. The process may involve dealing with banks, building societies, insurance companies and HM Revenue & Customs.

An Estate cannot be finalised until all claims to it have been received. Individuals have 6 months from the date when Probate was granted to make claims against an Estate. There are other factors which can affect the time taken such as any legal disputes or claims against the Estate, whether Inheritance Tax needs to be paid and ensuring that matters relating to Income Tax, Benefits Agencies and pensions have been resolved.

Arguments between family members, beneficiaries or Personal Representatives also cause delay. Such disagreements must be resolved before the affairs of the person who has died can be settled.

### *Costs*

We at Athi Law LLP will be happy to give you an estimate of the charges which are likely to be involved in administering an Estate. It is often not possible to know immediately what may be involved but we should be able to give you a reasonable estimate of the likely costs of the work needing to be carried out however.

An application for probate where the estate is under £325,000 will cost on average £1200 plus vat and disbursements.

An Application for probate where the estate is £325,000 or more will cost on average £2000-£3000 plus vat and disbursements

**Disbursements:**

Court Fee - £155 (For estates over £5000) (inc vat)  
Adverts in the Gazette typically cost £250 (plus vat)

**Services not included in the costs above**

None

**Fee earners and the people who will handle your matter**

- Hem Kumar Athi – Partner – 40 years experience - Solicitor
- Manoj Kumar Athi – Partner – 10 years experience - Solicitor
- Prem Pal – Partner – 20 years experience - Solicitor
- Roy Mason – Legal Executive – 40 years experience