

This guide will explain:

- What a Grant of Representation is, and what it applies to;
- When and Grant of Representation is required;
- How long it takes to administer an estate;
- The probate process

What is a Grant of Representation and when is it required?

A Grant of Representation is a form of authority from the court, appointing a named individual or individuals to deal with the affairs of a person who has died. This may come in two forms:

(a) A *Grant of Probate* – for the estate of a deceased person who has a Will appointing a personal representative

(b) *Grant of Letters of Administration* – for the estate of a deceased person who does not have a Will or they have an invalid Will (referred to as ‘*intestate*’), or a deceased person who has a Will without a surviving personal representative

The term ‘*Personal Representative*’ includes an Executor appointed in a Will or a person appointed by the court to administer the deceased person’s estate; for example, if they do not have Will.

A Grant of Representation is usually needed when the person who died leaves one or more of the following:

- £5,000 or more
- stocks or shares
- property or land held in their own name or if the spouses each own a separate share of the property – called ‘tenants in common’

A Grant of Representation is not needed if the person who died held all their assets jointly with another person as ‘joint tenants’ because the joint assets automatically pass to the surviving

joint owner. However, some financial organisations may require a grant of representation before giving access to even a small amount of money.

Upon notification of death, banks, building societies and financial institutions will usually ‘freeze’ the deceased’s accounts and assets. With the exception of releasing funds to pay for a funeral or Inheritance Tax, the assets will not normally be released until a Grant of Representation had been registered with each organisation.

What is involved in the administration of an estate?

When a person dies, the assets they leave behind are referred to as their “estate”. The estate needs to be dealt with in an orderly manner and the Personal Representative is responsible for this. They must ‘administer’ the estate, which involves applying for a Grant of Representation, collecting all the assets and selling property, paying all inheritance tax or other liabilities due and distributing the estate to the appropriate beneficiaries. At the end of the administration process, the Personal Representative is required to provide final estate accounts recording what they have done. HMRC can ask to see these records for up to 20 years after inheritance tax is paid.

Our Services

As specialist solicitors, we use our expertise to help Personal Representatives complete the administration process swiftly and efficiently, and to the correct standard. As all cases are different, we tailor our services to meet your specific requirements.

We operate a fixed fee for a ‘*grant only*’ service, which means we will complete the application for the grant of representation only, and will not undertake any other administration activities. We also operate a ‘*full administration*’ service, which means we will undertake the entire administration of the estate from beginning to end, including the preparation of final estate accounts and distribution to beneficiaries.

Estimated Time Frames for administering an estate

Broadly speaking, in straightforward cases where the value of the estate falls below the inheritance tax threshold of £325,000, and there is no need to submit a detailed Inheritance Tax

account to HMRC, it will usually take around 4-6 months to complete the administration process once we receive instructions from the personal representative.

It will take longer to complete the administration process if the matter is more complex because of family disputes, inheritance or Will disputes, a large number of beneficiaries, charitable beneficiaries, foreign assets or missing/unidentified beneficiaries.

Other factors which may increase the time it takes include:

- whether the financial affairs of the person who died were in order;
- whether the person who died had an interest in a business or in a farm requiring valuation;
- If there is commercial or residential property to sell; and
- If there are a number of shares and investments

When an estate is more complex, the probate process can take up to a year or even longer to complete. Personal Representatives have what is commonly referred to as '*an executor's year*' to complete the administration process to ensure that all assets are identified and realised, and all creditors are identified and notified.

Once we have had the opportunity to consider the complexity of an estate, we will be able to provide better and more accurate timescales for completion of the administration process.

Claims against an estate

A claim will be made against the estate in all cases if the deceased was in receipt of benefits and it transpires after their death that they were not entitled to claim the said benefits, or if there was a post-death overpayment of state pension or state benefit. Sometimes, these claims do not materialise until after a Grant of Representation has been obtained. A Personal Representative should wait until all claims have been dealt with and discharged before they begin distributing an estate

Claims by Individuals

Claims against an estate may be made by disinherited family members, or dependents of the deceased who may have been left out of the Will or believe they have been left an insufficient

legacy under the Will or intestacy. Certain classes of individuals are automatically allowed to challenge an estate if provision is not made for them in a Will or intestacy.

Tax

The amount of Inheritance Tax due from an estate (if any) needs to be established and paid to HMRC.

If a detailed Inheritance Tax account is required to be submitted to HMRC, there are time-limited to comply with and penalties can be applied for late filing or if certain information in the account is not provided or is inaccurate. HMRC charge 3.25% per annum interest on outstanding inheritance tax.

At various stages of the administration process, there are likely to be tax considerations.

How long does it take to receive an inheritance?

In most cases, you can expect to receive an Inheritance between 9-12 month after a person has died, but this may be longer in more complex cases, as explained above.

How are the solicitor's costs met?

Solicitor's fees in connection with the administration process are usually paid before the estate funds are finally distributed to the beneficiaries and come from the deceased's residuary estate. The '*residuary estate*' is the balance of the estate which is left after payment of all other debts, funeral and testamentary expenses, taxes and gifts of money left in a Will.

Deed of Variation

In certain circumstances, beneficiaries can re-direct the dispositions of a Will or intestacy if, for example, they do not want to inherit money left to them and would like their children to inherit instead. Please ask for further information if you would like advice on re-diverting an inheritance you are receiving. These legal instruments must be compliant with inheritance tax legislation, and there are strict time limits requirements which require completion of the variation within two years of the death of the deceased.

We hope you find this guidance useful. However, please do not hesitate to contact us if you have any further questions.