

WHAT IS PROBATE AND WHY DO I NEED IT?

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Probate is the legal process that takes place after someone dies. It gives the right person the authority to deal with their money, property and possessions (their 'estate').

If there is a Will, the probate confirms it's valid and allows the named executors to carry out the wishes in it.

If there isn't a Will, the process is still needed, but instead, the law decides who can take responsibility (usually a close family member) and how the estate is shared.

In both cases, probate is what gives someone the legal authority to sort everything out.

HOW DOES PROBATE WORK?

While probate works slightly differently depending on whether there is a Will, the aim is always the same: to give someone the authority to deal with the estate.

If there is a Will, the executors named in it apply for probate and carry out the wishes set out.

If there isn't a Will, a close family member (called an administrator) applies instead, and the estate is handled according to legal rules.

Having a Will can make the process clearer and more straightforward, as it sets out who should take responsibility and how things should be dealt with.

IF THERE IS A WILL

If someone has left a Will, they will usually have named one or more executors.

The executors apply to the Probate Registry for what's called a Grant of Probate (unless the estate is simple enough that one isn't needed).

This document gives them the legal authority to:

- **Collect money from banks and other organisations**
- **Deal with property**
- **Pay any debts**
- **And distribute the estate in line with the Will**

IF THERE IS NO WILL

If there isn't a Will (or it isn't valid), the process still goes ahead, but under a different set of rules.

A close family member can apply to deal with the estate. They are known as an administrator, rather than an executor.

There is a set legal order of who can apply, starting with:

- **Husband, wife or civil partner**
- **Children (18 or over) or grandchildren (if their parent has died)**
- **Parents**
- **Brothers and sisters**
- **Other relatives**

The person appointed applies for a Grant of Letters of Administration, which gives them the same authority as probate would, but the estate is then shared according to the law, rather than personal wishes.

FINDING A WILL (PROBATE SEARCH)

If you're not sure whether a Will exists, there are ways to check.

Once probate has been granted, both the Will and the legal document (called a Grant of Representation) become public records.

The Government provides a probate search service where you can look for these documents for deaths registered in England and Wales since 1996.

A FINAL WORD

Probate can feel overwhelming, especially when you're already dealing with loss.

Whether there is a Will or not, you don't have to figure it all out on your own, there is support available to guide you through each step.