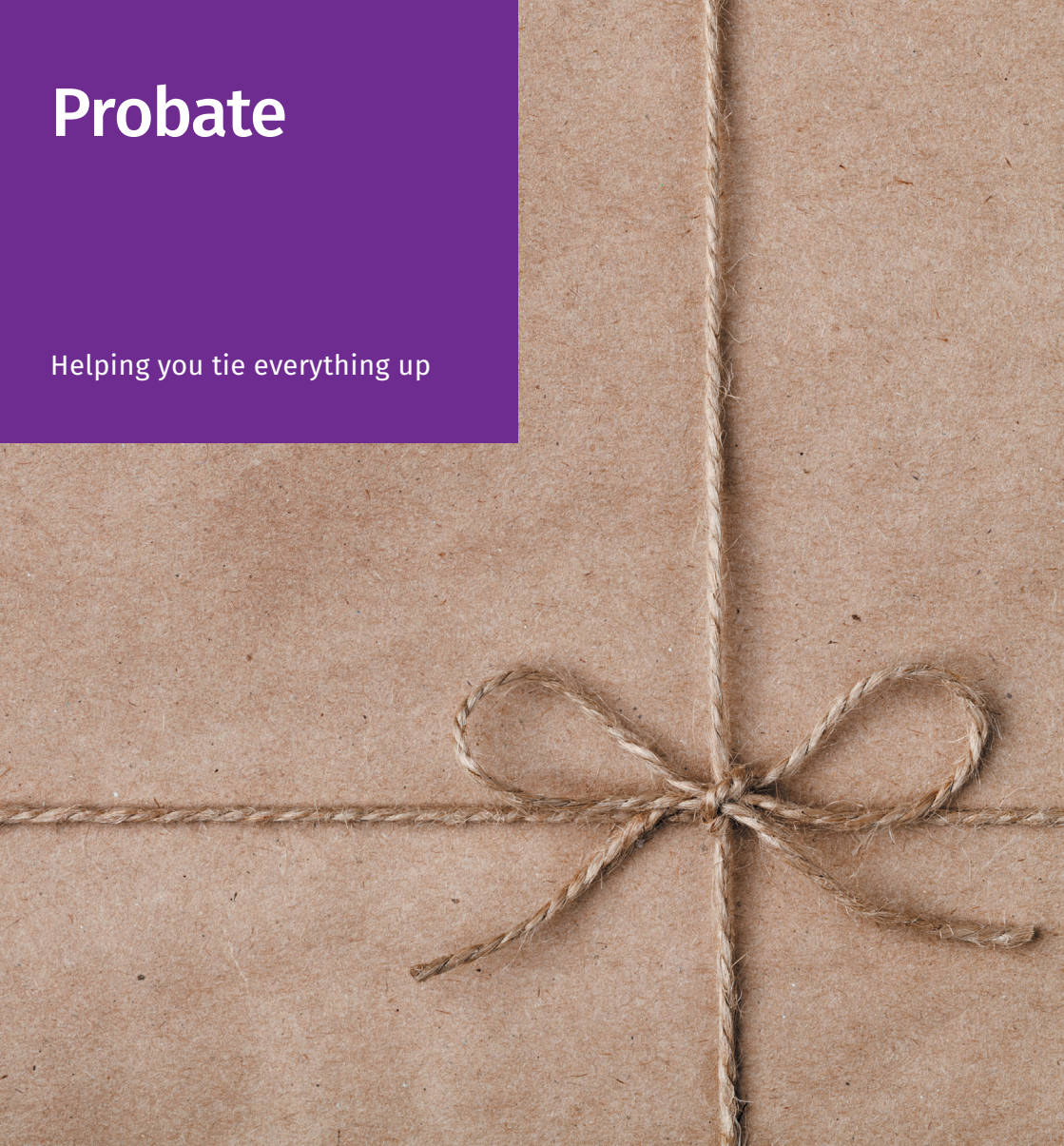


# Probate

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# What is probate?

**‘Probate’, sometimes known as ‘Estate Administration’, is a process where the affairs of a person who has died are wound up.**

It is the management of all activities relating to the valuation, collection and distribution of a deceased person’s estate and includes all the legal, tax and administrative activities that will need to be carried out whether or not there is a Will.

Amongst other things, it can include closing the bank accounts of the person who has died, selling or transferring their investments and their home, and settling any of their debts, like outstanding utility bills.

The person who deals with the affairs of the person who has died will then distribute whatever is left of the estate in accordance with that person’s Will, or the Government’s ‘Intestacy Rules’ if they have died without one.

## Who deals with probate?

**When a person dies, their ‘personal representative’ is responsible for dealing with their affairs and winding up their estate.**

If the deceased person left a Will, their personal representative is known as their ‘executor’ and will be named in the Will of the person who has died. If the deceased person did not leave a Will, their personal representative is known as their ‘administrator’, and the person entitled to take on this role is determined by the Government’s own rules which often results in close family members acting.



## Grant of Representation

**If the assets of the person who dies exceed £5,000 to £10,000, or consist of property such as shares, houses or land, their personal representative will usually have to obtain a 'Grant of Representation' in order to deal with their affairs.**

Essentially, a Grant of Representation is a certificate issued by a section of the Courts in England and Wales called the Probate Registry, which officially names the individual or individuals who will be dealing with the deceased person's estate.

If the person who has died left a Will, the Grant of Representation is called a 'Grant of Probate'. If that person did not leave a Will, or did but their named executors cannot act or wish not to do so, the Grant of Representation is called a 'Grant of Letters of Administration'.

To obtain the Grant, an official application has to be made to a local Probate Registry.

## Administering the estate

**Once the personal representative has obtained the Grant of Representation, he or she has the power to close the bank accounts of the person who has died, and transfer or sell their investments and property.**

The deceased person's assets must then be used to settle any debts they owed, and later, any expenses incurred in dealing with their estate. As an example, if the deceased person owned a house which is to be sold, these expenses might include bills for gas and electricity used between the date of the person's death and the actual sale of the house, along with any legal and Estate Agent's fees.

Once all debts and expenses are paid, then where there is a Will, the executor can distribute whatever is left in accordance with its terms. If there is no Will, the administrator must distribute whatever is left to those who are entitled to the assets under the Government's Intestacy Rules.

## Frequently asked questions

### **Q. What is the difference between an executor and an administrator?**

An 'executor' is someone that is appointed in the Will of the person who dies to deal with their affairs after death. An 'administrator' is someone that deals with the estate of a person who dies without having made a Will, or whose executors in a Will they made cannot act or wish not to do so. They are collectively known as 'personal representatives'.

### **Q. What are the duties of a personal representative?**

A personal representative has a legal duty to act with due diligence. Amongst other things, they must safeguard the assets of the person who has died, collect in their assets, settle their debts and any expenses, and then distribute whatever is left in accordance with that person's Will, or the Government's Intestacy Rules if they did not make one.

### **Q. How do I obtain a Grant of Representation?**

By submitting a formal application to the Probate Registry which is sworn under oath. It will contain details of both the person making it and the person who has died, and confirm whether or not Inheritance Tax is payable, and if it is, that it's been paid.

### **Q. How long does an estate administration take?**

It can take around six months to a year to complete a simple estate administration, with more complex estates taking longer.

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