

Is a Grant of Probate always needed?

What is a grant of representation?

When a person dies, the deceased's personal representatives (usually the Executors named in the Will) are responsible for dealing with a deceased's estate and implementing the terms of the deceased's Will (or if there was no Will in accordance with the rules on intestacy).

In many cases, the Executors of the Will need to obtain a Grant of Representation, generally referred to a Grant of Probate. This is a court sealed document issued by the Probate Registry and is granted when a person has left a will naming an Executor or Executors. The Grant of Probate confirms the identity of the Executors and serves as evidence to the outside world that the Executors are legally entitled to deal with a deceased person's assets such as their house, bank accounts, investments etc.

Is a Grant of Probate always needed?

In short, No.

In some cases, the Executors do not need to apply for a Grant of Probate. For example, where the estate is relatively simple and there is no property involved it may not be necessary. If the value of the deceased's bank or building society accounts is relatively small, the bank or building society may be willing to close the accounts without the need to obtain a Grant of Probate (this largely depends on the requirements of the relevant bank/building society). Similarly, other assets such as personal possessions, motor vehicles and refunds etc can usually be dealt with without a Grant of Probate.

The most common situation where a Grant of Probate may not be needed is where the deceased owned assets in joint names (e.g. by a married couple). This may be a house, bank accounts, or shares, that continue in the name of the survivor. If an asset is jointly owned, then it is likely to pass to the remaining joint owner by 'survivorship'. These assets pass to the surviving owner automatically and a Grant of Probate is often not required for this to take place (note : It is always important to seek legal advice in relation to joint property).

Every estate is different, and we would always recommend that in cases of uncertainty, professional legal advice is taken, at least initially, to establish whether or not a Grant of Probate is required. This can save time and expense in the long run.

If you would like further advice or information or would like an initial chat with us, do get in touch with [James Rousell](#) or [Susannah Griffiths](#) via telephone on 01384 371622 or email post@wjclaw.co.uk

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