



Understanding the probate process

A beneficiary is a person who is entitled to receive some benefit from someone's estate following their death. Even though beneficiaries do not have specific responsibilities during the probate process, it is natural to have queries around the probate process and what their rights are.

Here we outline some of the common questions a beneficiary may want to know the answers to, providing clarity on a difficult subject and helping beneficiaries to understand more.

We have a range of other helpful probate resources, including details of our probate and estate administration service, a guide for executors and a glossary of legal terms used in probate.

For more information on our probate services and to download our other factsheets, scan me:



Common questions about probate and the role of beneficiaries

What are the rights of a beneficiary?

Beneficiaries receive some benefit from the estate of the deceased – the benefit is either in the Will, or under the rules of intestacy if there isn't a valid Will.

Not all beneficiaries will have the right to see the estate accounts.

It is only beneficiaries receiving residual gifts from the estate that are entitled to see the accounts.

What are the three categories of gifts left to beneficiaries?

The three categories are

+ Specific gifts – this is the gift of an item, such as a car that the deceased owned when they passed away or shares in a specific company;

+ Pecuniary gifts – this is a gift of a specific sum of money – for example £30,000; or

+ Residuary gifts – this a gift of what's left once all liabilities (debts), administrative expenses, specific gifts and pecuniary gifts have been paid.

What is the order of distribution for beneficiaries?

There is an exact order in which assets from the estate can be shared with beneficiaries – this is called the order of distribution.

Debts and liabilities must be settled first, legacy beneficiaries receive their inheritance

next (those that are entitled to a specific gift or sum of money), followed by residual beneficiaries who receive whatever remains in the estate.

Can beneficiaries also be executors?

Yes, an executor can also be a beneficiary of a Will. Many executors are also beneficiaries, especially if they are close family members of the deceased. It is often the case that the main beneficiary of a Will is also an executor.

A key consideration for those acting as both beneficiary and executor is to achieve a balance of effectively carrying out their

duties while respecting the interests of the other beneficiaries and the obligations set out in the Will.

Beneficiaries can apply to be executors if the named executor in the Will is deceased or unwilling to act. In cases where there is no Will, an application can be made to the Probate Registry to become an administrator.

What information is shared with beneficiaries during the probate process?

Although a beneficiary has no legal rights to request updates in respect of the administration of the estate, it is good practice for the executors to stay in regular communication.

Professional accountancy firms communicate information and updates directly to their client (the executor) that can be easily passed to the beneficiary, where appropriate.

Before probate is granted, the executors have discretion over sharing information in

the Will. However, after probate is granted, the Will becomes a public document, and anyone can apply to the Probate Registry to request a copy of it.

Residual beneficiaries can request to see a copy of the estate accounts after probate has been granted. The accounts include details of the estate's assets and liabilities, as well as executors' expenses, enabling them to see a complete breakdown of how their share of the inheritance has been calculated.

Can beneficiaries challenge a Will?

Beneficiaries do sometimes contest the validity of a Will or dispute the planned distribution of assets. Disputes of this nature are referred to as contentious probate and it is advisable to seek professional guidance on this complex area.

Contesting a Will after probate has been granted can be costly and require additional legal advice.

How long does it take to administer an estate?

The time it takes to administer an estate, or obtain probate, is dependent on several variables, including its size and complexity.

In England and Wales, the probate process to settle an estate takes around six to nine months. However, if there is property to sell, tax affairs to resolve, or foreign assets, it can take in excess of twelve months.

The executor or administrator needs time to assess the estate's assets and settle any outstanding liabilities, the grant of probate will also have to be issued (should probate be required) prior to any inheritance being given to the beneficiaries. Financial institutions can release funds without probate dependent on the amount of funds they are holding.



What happens if there is a dispute between a beneficiary and an executor?

Despite a beneficiary not having any legal rights during the administration of the estate, an executor should still use reasonable care to ensure they are acting in the best interests of the beneficiaries and keeping them informed as to any delays.

Failure to keep regular communication on important issues or hold-ups in the progress can result in disputes between the beneficiaries and executors.

If there are concerns that the executors are not acting in the beneficiaries best interests, beneficiaries can apply to the Court to have an executor removed or replaced. Escalating disputes can be an expensive process and it is always advisable to seek legal advice.

What is a deed of variation?

Should a beneficiary want to make changes to a Will after someone has died, they can execute a deed of variation. A deed of variation is a legal document that enables changes to be made to the distribution of an estate.

A deed of variation must be signed by all beneficiaries affected by the variation. If the

deed is executed within two years of the death, it is effective for tax purposes.

There is a helpful checklist on [gov.uk](https://www.gov.uk) that enables beneficiaries to calculate if a variation to the Will meets all the necessary legal requirements. A copy of the checklist can be found by visiting [gov.uk](https://www.gov.uk)



How M+A Partners can help

M+A Partners is pleased to be able to offer a professional and competitively priced full probate and estate administration service. This service helps to alleviate some of the obligations and worries at what is a very difficult and upsetting time and is available to all of our clients, their families and friends. We are fully licensed and accredited to obtain probate directly on your behalf.

For a consultation regarding probate and how our services can help you, please contact our experts:



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We have a range of other helpful probate related resources on our website, please visit: mapartners.co.uk/services/probate-and-estate-administration or **scan the QR code** on the front of this factsheet.



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