



BRIEFING PAPER

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Obtaining a copy of a will

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Summary

This paper deals with the position in England and Wales.

Terminology

In this briefing paper:

- “testator” means the person who has written a will;
- “personal representatives” means the people who administer the estate of the deceased; and
- “beneficiary” means a person who receives property under the will.

Before probate is granted

In general, a will is a private document unless and until a grant of probate is issued.

While the testator is still alive, with limited exceptions, nobody other than the testator is entitled to receive a copy of the will.

The will remains a private document following the testator’s death until probate is granted.

In some cases, however, it is not necessary to apply for a grant – for example if the estate is very small. In these circumstances, the personal representatives may choose to send a copy of the will to the main beneficiaries.

After probate is granted

Once a grant of probate has been issued, a will becomes a public document and anyone can apply to have a copy.

The [Gov.UK website](#) provides information about searching for probate records, either online or by post.

1. Before the death of the testator

A will may usually be changed or revoked at any time by the testator (person making the will) and it has no effect until the death of the testator.

A will is a private document which means that, while the testator is still alive, in general circumstances, nobody other than the testator is entitled to receive a copy of the will. In particular, solicitors are under a duty to keep their clients' affairs confidential.

There may be exceptional circumstances in which the will of a testator who is still alive may be disclosed (for example to an attorney) but specific legal advice would be needed about this.

A will is a private document and can usually be changed or revoked by the testator

2. After the death of the testator

2.1 What is a grant of probate?

Personal representatives – executors where they are appointed by a will, or administrators otherwise – are responsible for dealing with the estate of a deceased person.

Their authority to receive the assets in the estate is proved by a grant of representation.

There are three types of grant of representation, one of which is probate which is granted to the executors named in the deceased person's will.¹

After the death of the testator, the personal representatives deal with the estate. This includes applying for a grant of probate, where necessary

2.2 Is a grant of probate necessary in all cases?

In some cases, it is not necessary to apply for a grant. An HM Courts and Tribunals Service leaflet provides information about when a grant may not be needed:

You may not need probate if the person who died:

- had jointly owned land, property, shares or money – they will automatically pass to the surviving owners
- only had small savings or premium bonds

Contact each asset holder (for example a bank or mortgage company) to find out if you'll need probate to get access to assets. Every organisation has its own rules.²

A grant of probate is not necessary for some estates

2.3 Obtaining a copy of a will if no grant of probate is made

If no application for probate is made, it may be difficult for anyone to obtain a copy of the will of the deceased. This is because a will remains a private, rather than a public, document unless and until a grant of probate is made.

However, in these circumstances, the personal representatives may send a copy of the will to the main beneficiaries.

If no grant of probate is made, the will remains a private document

¹ Further information is provided in an HM Courts and Tribunals Service leaflet, [PA2 How to obtain probate - A guide for people acting without a solicitor](#), June 2019

² Ibid

3. After a grant of probate is issued

3.1 Will becomes public document

When a grant of probate has been issued, a will becomes a public document and anybody can apply to have a copy of it.

When a grant of probate has been made, anyone can apply for a copy of the will

3.2 How to search for probate records

[Gov.UK, Wills, probate and inheritance, Search for probate records](#), provides information about searching for probate records online or by post, including about costs and timescales.

The [application form for a postal search](#) includes guidance on how to request a copy of a will or grant of representation urgently, by contacting the local District Probate Registry.³ An HM Courts and Tribunals Service leaflet provides addresses and telephone numbers: [PA4SOT Directory of Probate Registries and Appointment Venues](#).

The search may be made for someone who died in or after 1858. However, if the person died recently, it is possible to apply for a “standing search”:

If the person died within the last six months, a grant may not have been issued yet. You should check the online search service regularly to see when a grant has been issued. You can then order the documents.

If you are unable to search online, you may apply for a standing search to enable a copy to be sent to you when the grant issues. The copy will not be sealed.

After a period of six months without result, your standing search will expire. You are able to extend the search for a further six months within one month of the expiry date by sending a further £10.

We will send you a letter telling you the date the standing search was entered.⁴

Citizens Advice, [Wills](#), provides further information about getting a copy of a will when probate has been granted, together with information about looking for copies of a will after someone dies.

³ [Postal search of the Probate records of England and Wales](#), July 2019

⁴ [Postal search of the Probate records of England and Wales PA1S](#), July 2019

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