

How to stop a Grant of Probate being issued

What is a Grant of Probate?

When someone dies, any assets left behind are known as a person's Estate. The Estate includes any money, personal possessions or property owned by the deceased.

Executors and Administrators have a legal obligation to distribute the Estate in accordance with the Will or the rules of intestacy and in a timely fashion. To do this they need a legal document known as 'Grant of Probate' or a 'Grant of Letters of Administration'.

When there is a dispute regarding the validity of a Will it may be necessary for you to stop a Grant of Probate or a Grant of Letters of Administration being issued, but how do you do this?

Stopping probate being issued is a simple process. Entering what is known as a 'caveat' at the Probate Registry stops probate being granted for a period of six months.

What is a Caveat and what does it do?

A Caveat stops the people who are Executor(s) or Administrator(s) from obtaining a Grant of Probate or Letters of Administration and being able to distribute the Estate.

A Grant of Probate or Letters of Administration is the legal document that allows the Executor/Administrator to prove that they have the authority to deal with the assets of the deceased. When a Caveat is in place, the assets of an Estate can not be distributed, known as administration of the Estate.

A Caveat should only be used if you have a genuine reason for wanting to prevent an Executor/Administrator from obtaining a Grant. This has to be more than just not liking the terms of the deceased's Will.

Reasons for lodging a Caveat

Only a person with reasonable grounds for challenging the validity of a Will should lodge a Caveat. Having a claim against an Estate is **not** a reason to lodge a Caveat.

A Caveat should be considered if you do not think the deceased's last Will was in fact their last Will, if you think that Will is invalid for any reason or if an intestacy is being pursued and you think a Will had been made.

Who can apply for a caveat?

To apply for a Caveat you must be over the age of 18. You can apply yourself, instruct a solicitor or instruct someone who is licenced to deal with probate.

You may wish to apply for a Caveat if you have an interest in an Estate and believe that there is a valid reason to challenge the validity of a Will or an intestacy.

How to know if you have an interest...

If you believe you should have been included in the Will, or in fact were included in another Will you may wish to bring a claim against the Estate. You may also wish to claim if you believe you are due inheritance under a Will. The Rules of Intestacy may also mean you have an interest in an Estate.

How long does a Caveat last?

Once a Caveat is lodged, it lasts for 6 months. A Caveat can be renewed for a period of 6 months. Once the Caveat expires probate can be granted.

A Caveat can be allowed to lapse or can be removed voluntarily. If it is necessary to challenge a Caveat a Warning needs to be issued. If the person who has lodged the Caveat wishes to prevent the issue of a Grant they will need to file an Appearance and after that the Court will determine the issues.

How to lodge the caveat...

You can write to the Probate Registry or apply online; you will need to sign a Form PA8 which you can find here: <https://www.gov.uk/wills-probate-inheritance/stopping-a-grant-of-representation>

When completing the Caveat application, you will need to have the full name, date of death and last address of the person who has died. With this information, providing no probate has already been issued a Caveat will be lodged against the person's Estate preventing probate being granted.

Fees

The cost of a caveat is £20.

For more information find our articles about Caveats here:

<https://www.wilsonbrowne.co.uk/guides/what-is-a-caveat/> &
<https://www.wilsonbrowne.co.uk/news/personal/a-caveat-in-time/>