

GILESWILSON
SOLICITORS

YOUR LEGAL AFFAIRS

A GUIDE TO LEGAL MATTERS
FOLLOWING A BEREAVEMENT



For legal advice, support or to arrange your free 30-minute consultation, simply call our friendly team on 01702 477106 or email Melinda Giles direct on melinda@gileswilson.co.uk.

Contents

About Giles Wilson	04
About Melinda Giles	05
What is Probate?	06
What happens if there isn't a Will?	07
A step-by-step guide to probate	08
What happens to property?	10
What happens to children or dependants?	11
What problems can arise with probate?	12
Making your own Will	13

ABOUT GILES WILSON /

At Giles Wilson, we understand that this is a difficult time for you, your family and friends – that is why we have prepared this simple introduction to the legal process, as well as being on hand to provide legal advice when you need it.

As a law firm, we take a holistic approach to your needs and we work with you to discuss the probate and trust issues surrounding your recent bereavement. This can include all aspects of the legal work – from the distribution of funds, property and land, through to arranging appropriate care for children and dependants.

We have unrivalled experience and expertise in all aspects of legal issues surrounding bereavement. Our team are highly trained and respected within their field and provide an exceptional level of service – in fact, many other local law firms use our professional services on a consultancy basis.

As well as expert support and advice, our legal team are also able to act on your behalf and represent your needs in Court if required.

We hope this introduction is useful and if you require any information, simply contact our team on 01702 477106 or visit www.gileswilson.co.uk.

- ▶ Member of Association of Contentious Trust and Probate Specialists (ACTAPS)
- ▶ Member of Solicitors for the Elderly
- ▶ Member of Society of Trust and Estate Practitioners (STEP)
- ▶ Member of Office of the Public Guardian Panel of Professional Deputies
- ▶ Member of Law Society
- ▶ Lexcel Accredited Law Firm

ABOUT MELINDA GILES /

Melinda joined Giles Wilson in 1986, undertaking probate work while studying part-time to become a solicitor. Admitted to the Roll in 1997, she subsequently became a partner at the firm and now deals mainly with Wills, trusts and probate issues, as well as Court of Protection work.

Widely respected in the legal profession, Melinda is a member of Solicitors for the Elderly and the Society of Trust and Estate Practitioners. In addition, she is also a Professional Deputy appointed by the Court of Protection.





WHAT IS PROBATE?

The term ‘probate’ is often used when someone passes away – but what does it actually mean?

In essence, probate is the process of administering the estate of the deceased person. The estate includes all the assets in the deceased’s name at the time they passed away. Probate resolves all claims and distributes the estate according to their Will – if there is one.

A ‘Grant of Representation’ gives legal authority to administer the estate. Where there is a Will, this is known as a ‘Grant of Probate’. In this case, the Executors named in the Will get the grant.

Where there is no Will, the persons legally entitled on intestacy get a ‘Grant of Letters of Administration’.

If someone close to you has died, you may need urgent advice on how to deal with a Will – or what do to if there is no Will. If you’re named as an executor it is even more

important to seek advice as quickly as possible, to find out whether you need to get a ‘Grant of Probate’ – and what you need to do next.

Being an executor is a big responsibility. You are entitled and obliged to deal with the estate of the deceased person and undertake a number of duties on their behalf. It’s best to seek advice as soon as possible and you can arrange a free initial consultation, where we can advise on whether a ‘Grant of Representation’ is required – and the associated costs.

During your free consultation, we can provide you with a frank and honest review of your situation and provide you with details on your options, helping you to choose the best approach for your circumstances.

DO NOT REMOVE THE IMPRESSED SEAL OF THE COURT
IN THE HIGH COURT OF JUSTICE
The District Probate Registry at Winchester

THE WILL
according to English law

WHAT HAPPENS IF THERE ISN'T A WILL?

If a person passes away without a Will, the law makes provisions for everyone who is entitled to some of the estate.

However, the initial legal right can vary, depending on your personal circumstances. It is therefore vital to get legal advice as soon as possible to help protect your position – especially if you are the spouse, partner, child or dependant of the deceased.

Our team at Giles Wilson are on hand to offer a free initial consultation. This will provide you with a better understanding of the situation and help you make the right decisions to preserve your right to the deceased's estate.

And, being a member of ACTAPS, we are specialised on challenges to Wills or advising you if you feel provision should have been made for you.

A STEP-BY-STEP GUIDE TO PROBATE

This can be a stressful time and making decisions can be very difficult.

First steps...

Following an initial consultation with us, you may decide to instruct us to handle the administration of the estate. At this point, we will need details of the assets and liabilities in the name of the deceased at the time they passed away. If you don't feel like you have all the information ready, we will help advise you how to establish more.

Estimating the estate...

One of the first key issues is to get an understanding of the approximate value of the estate – as well as whether there are any implications in terms of insolvency or tax liabilities. At this point, it is also important to identify any prospective challenges to the Will.

Grant of Probate...

With all the details in place, and the Will confirmed as valid, we will prepare an application for 'Grant of Probate' on your behalf. This always includes an oath sworn by an executor/personal representative and an Inland Revenue account. The type of account will vary – it depends on the value of the estate. Similarly, our fees vary on the value and complexity of the estate, but we always provide a fixed fee for getting the 'Grant of Probate' on your behalf.

Occasionally, it is not necessary to get probate – you just need a letter or an indemnity from us. This can help increase the efficiency of the process when dealing with your assets.

Helping you further...

Once the 'Grant of Probate' has been obtained, you can deal with the post Grant administration yourself, or we can handle it on your behalf. Our team of experts can give you invaluable support, particularly with regard to Income Tax, Capital Gains Tax and Inheritance Tax – as well as all shares, financial institutions and property. As with all aspects of our work, information regarding charges will be supplied as soon as possible in advance.

Grant of Representation...

In many cases, getting a Grant of Representation will only take one visit to our office and we strive to make the experience as straightforward and stress-free as possible. We do this by using clear, plain English – whether we communicate with you by email, telephone or in person.

Completing the process...

Once all the funds are identified and gathered, the final part of the administration of the estate is distributing it in accordance with the Will. At that point, the personal representative or executor will receive an 'Estate Account'. This will show all receipts and payments, as well as the proposed distribution for your approval – prior to cheques being sent to beneficiaries in line with the terms laid out in the deceased's Will.





WHAT HAPPENS TO PROPERTY?

When someone passes away, they can leave a lot more than treasured possessions behind – they can leave bricks and mortar or land too.

If the deceased person was a property owner – either jointly or in their sole name – then you need to seek legal advice as soon as possible. It is vital that you act quickly to reduce the likelihood of any issues arising.

If you are the surviving partner of the deceased person, it is also a good time for you to establish the ownership of the home you live in. This gives you the chance to ensure the legal title is in order and your interests are suitably protected.



CHILDREN /

WHAT HAPPENS TO CHILDREN OR DEPENDANTS?

If parents die without a Will then there is no officially appointed guardian for them. This could mean that they end up with a relative the parents did not want them to live with.

Similarly, if the parents had not appointed someone to be in charge of their finances, the children's inheritance could be affected while they are growing up and they will automatically receive all the funds at 18. With a Will, the age of inheritance could be higher.

In addition, with no Will, Intestacy Rules apply. These do not take any notice of stepchildren and an entire estate could end up passing to one natural child, even if three have been brought up in the family as the deceased's own.

At Giles Wilson, our team of experts know the best, least disruptive approach to resolving probate issues regarding children. We will work with you and the affected family to get the best possible results for all concerned.

Alternatively, the deceased may have been the carer for a vulnerable adult.

We deal with all levels of mental incapacity advice – from initial support and 'Lasting Power of Attorney' to a 'Court of Protection Deputyship Order'. In addition, we can give advice with regard to residential care funding and ongoing management of the affairs of someone who needs extra support for the future.

And, of course, we are able to assist in the creation of a Will, providing both you and the people who depend on you with peace of mind for the future.



WHAT PROBLEMS CAN ARISE WITH PROBATE?

Issues surrounding probate can be complicated and confusing – made more distressing because you have also experienced a bereavement. This is one of the reasons why it is always recommended that you seek legal advice.

At Giles Wilson, we have unrivalled working knowledge of all issues surrounding Wills, probate and trusts, which makes us the first choice for individuals who want to resolve any issues quickly, simply and with the minimum of fuss.

Our vast wealth of experience means we are able to handle every aspect of probate on your behalf, ensuring you get the right result. From challenges to an existing Will to a Will that's missing or damaged, we know the best course of action, every time.

With an empathetic approach to your needs and a commitment to providing you with a professional service

built on confidentiality, privacy and efficiency, it is easy to see why so many clients rely on us to deliver them the legal advice they need.



MAKING YOUR OWN WILL

When coming to terms with a bereavement, it is important to start thinking about preparing your own estate for the future.

Often it can highlight issues that you had previously not considered and can help you focus on what you would like to do in your own Will.

In addition, the passing of a relative or friend can change the requirements of your Will and mean you need to make changes for the future.

At Giles Wilson, we can draft Wills, living Wills, mirror Wills and give practical, measured advice and support on all aspects of this important part of life. We offer a sympathetic and considered approach, including tax issues and estate planning.

GT//





GILESWILSON

Head Office

1711 London Road, Leigh-on-Sea,
Essex SS9 2SW

Broadway Office

54 Leigh Broadway
Leigh-on-Sea
Essex SS9 1AG

Telephone: 01702 477 106

Fax: 01702 470 206

Email: info@gileswilson.co.uk

DX: 52858 Leigh-on-Sea

Partners: Melinda Giles
Philip Giles

Solicitors: Vincent McCarthy
Caroline Andrews
Paul Berry
Helen Martin

Executives: John Mears

Consultant: Antony J Giles