

SELLING A HOUSE IN PROBATE



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Many people will find that a time comes when they must administer a Will and deal with the sale of a property in Probate. When a person passes away, it's hard to think about some of the practicalities that need to be dealt with, let alone the paperwork. The task of carrying out the terms of a person's Will falls to their Executors. If the Will includes property, then the Executors must obtain a Grant of Probate to allow them to administer the estate.

This can be a stressful time for those dealing with a bereavement. Understanding what it actually involves and asking the help of experts who can guide you through the paperwork will help simplify everything especially at a time when your mind will be elsewhere.

What is Probate?

Probate is a legal process that confirms the validity of the Will (if there is one). It gives authority to the personal representatives to handle the deceased's assets according to his/her Will. Probate involves getting a document called a Grant of Probate from the Probate Office and this Grant must be obtained by the executors named in the Will.

Every estate is different and therefore it can be difficult to put an estimate on how long the process will take. The executors can make a Probate application themselves to the Probate office, but most people seek the assistance of a solicitor who is experienced in this area.

If your deceased family member left a Will, then Probate is required if:

- The deceased owned a property in their sole name or as tenants in common.
- The deceased owned other assets of significant value in their sole name or as tenants in common.

The length of time it takes depends on the size and complexity of the estate. It will take many months and depends on any backlog in the Probate Office. Once your application to the Probate Office has been submitted, it's out of your hands.

Selling a house under Probate



Selling a property that is under Probate is the same as selling any other property. The property can be listed for sale, an offer accepted, and the usual conveyancing process commenced. The only difference is that the sale cannot be completed unless a Grant of Probate has been issued.

So, if you're selling a house that is under Probate, the property can be put on the market while the Probate application is ongoing. Once the property is Sale Agreed, the solicitor can issue a Contract that will have a special condition that states that the sale is subject to Probate and that the closing date will take place after the Grant of Probate has been issued. This means that the Solicitor for the buyer can review the Contract and Title documents and raise any queries, while the Grant is pending. The sale can be ready to conclude as soon as the Grant issues.

When to put a Probate property on the market?

The Probate process will take some time and you may wonder at what point you should put the property on the market. This is entirely up to you and there is nothing stopping you from putting the property on the market at the earliest available opportunity. Properties that are under Probate are often an attractive proposition for prospective buyers, as there is no chain. Buyers are generally happy to put forward their offers and proceed with the conveyancing process, even though the Grant of Probate has not yet been issued.

The value of the property at the date of death must be provided to the Probate Office to obtain the Grant of Probate. Because of this, it can make sense to have the property valued and listed for sale sooner rather than later. That way, you will have an accurate property valuation for Probate purposes. An inaccurate value for Probate purposes can result in unnecessary taxes being charged.

Buying a house in Probate

If you're buying a house that is subject to Probate, it is important to check with the seller's solicitor as to whether or not the application has been submitted to the Probate Office and when it was submitted. A Grant could issue within 12 weeks of the application being made but that can vary considerably. The Probate Office can update you on the application dates that they are currently working on. Knowing this information will help provide you with an estimated closing date.

If the application has not yet been submitted, you should enquire with the seller's solicitor as to when they can submit the application. Knowing at what stage it is at is important. If you are obtaining a mortgage offer to purchase the property, you should pay careful attention to the expiry date of your loan offer, to ensure the offer does not expire before the expected closing date.



How Can We Help

At Quillsen, our agents have helped many people through the sale of a house in Probate. It can be an emotional time and we are available to guide you through the process to make it as straightforward as possible. We will provide a free, no-obligation market appraisal/valuation. Should you select us as your agent, we can help you get the property ready to go to the market and can assist with whatever is needed to ensure the property is presented in the best possible way.

As Executor, you have a particular duty to ensure that you are selling the property for the best possible price. Working with Quillsen, you can rest assured that we will market the property extensively and that the highest price possible is obtained. We will also keep you updated on a regular basis throughout the process so that you can provide feedback to the beneficiaries.



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