

Entering a Caveat at the Probate Registry

Briefing note

What is a caveat?

The caveat procedure is used to prevent a Grant of Probate or Letters of Administration being taken out in respect of a deceased's estate. The person who puts the caveat in place is called the caveator. The caveat can be submitted by using form PR30 or by letter (provided it includes the necessary information) which is lodged at the Probate Registry. There are only very limited forms of grant that can be taken out once a caveat has been entered.

Why would you want to lodge a caveat?

There are a number of reasons why a caveat may be required. These include:

- Where the caveator wants to prevent the Grant of Probate being taken out as they believe the Will of the deceased is invalid for some reason, such as the person who made the Will did not have the mental capacity to do so, or the Will was not properly witnessed; or
- Where the caveator wants to prevent a Grant of Letters of Administration being taken out on the basis that the deceased died intestate, when they believe there was a validly-executed Will in existence; or
- Where the caveator is aware of or involved in a dispute about who is entitled, or is the appropriate party, to take out the Grant of Letters of Administration.

When is a caveat not appropriate?

It is not appropriate to lodge a caveat where the caveator wishes to bring a claim under the Inheritance (Provision for Family and Dependents) Act 1975. This is because a claim under this Act can only be brought once the grant of representation has been taken out.

What is the procedure for issuing a caveat?

A caveat can be lodged at any Probate Registry; this does not need to be at the probate registry local to the deceased. The Probate Registry will need:

- The deceased's name, date of death and address;
- The name and address of the caveator;
- The request for the caveat to be signed by the caveator or their solicitor;
- A fee

The caveat is then valid for six months. It can be renewed at the end of this period on payment of a further fee.

How will the caveat be discovered?

The caveat is not served on any party but is entered on a computerised register. Any party with an interest in the estate will discover the existence of the caveat when they seek to apply for a Grant or by being directly informed of its existence by the caveator or their solicitor.

How can the caveat be removed?

The caveator can remove the caveat at any time by writing to the Probate Registry,

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unless an "appearance" has been entered. In such circumstances, only the Registrar can order the caveat be removed. An appearance is a step taken by a caveator when a person discovering the caveat seeks to "warn" the caveat either because he/she has an interest in the estate under a different Will or on intestacy, or because they believe they are entitled to take the Grant. In asking the caveator to enter an appearance, the Probate Registry requires the caveator to set out formally what interest he/she has in the estate. Alternatively the caveator can issue and serve a summons for directions on the parties to seek directions on how matters should be dealt with before a District Judge or the Probate Registrar. If the caveator takes neither of these steps within 8 days of being served with a warning by the Probate Registry, the caveat will cease to have effect.

If no agreement is reached between the interested parties, it is likely that some form of contested probate claim will follow.

For further information and advice tailored to your specific circumstances, please contact any member of the Contentious Trusts and Estates team.

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