

Meet our Probate Team

Amanda Ireland, MIPA, FABRP

Partner & Head of Insolvency and Head of Legal Practice



Amanda joined McCabe & Ford (as the firm was known then), in January 1990, having spent the previous four years working in the insolvency department of a large national firm of Chartered Accountants. She qualified as an Insolvency Practitioner in 2002, and is licensed to deal with all types of insolvency by the IPA.

In 2018, Amanda attended and passed the SWAT UK Certificate in Probate and Estate Administration Course and Assessment, and is the firm's Head of Legal Practice. She sees this as a very exciting new area of expertise and skill, which has parallels with the insolvency work that she has enjoyed so much for many years now.

Leigh Jones, FCCA

Partner & Head of Finance and Administration



Leigh trained with MFW after joining the firm in 2004 and qualified with the Association of Chartered Certified Accountants in 2009.

Leigh has gained vast experience across many business sectors from working across a number of offices within the firm before becoming a Partner at the Herne Bay office. He works with a wide variety of clients providing advice on all aspects of accounting, taxation and business development.

In 2018, Leigh undertook the ICAEW probate accreditation and is now licensed to undertake probate work on behalf of the firm in his role as Head of Finance & Administration.

Alison Collier MIPA, MABRP

Associate & Probate Practitioner



Alison has worked for MFW since 1990. In 1996, she joined the insolvency team where she passed her Certificate of Proficiency in Insolvency and went on to qualify as an Insolvency Practitioner in 2007. She is licensed to deal with all aspects of insolvency but specialises in Liquidations for both solvent and insolvent companies, bankruptcies and Individual Voluntary Arrangements.

In 2018, Alison successfully passed the SWAT UK Certificate in Probate and Estate Administration Course and Assessment and is now also a qualified Probate Practitioner. Alison has an ideal set of skills to be able to carry out this new role.



To contact **Amanda, Leigh or Alison** please call
01795 479111



McCabe Ford Williams

Why choose an accountant for Probate work?

Before the legislation changes in 2014 an accountant was only able to assist the personal representatives or solicitors, which would often lead to increased costs for the estate as there would be charges from both professionals. Under the new regime we are able to act on behalf of the personal representative or can be appointed as a professional executor. Therefore we can deal with all legal and tax matters relating to probate under one roof.

As we are Chartered Accountants with large numbers of tax specialists you don't have to worry whether you are paying the correct rate or amount of tax. We are specialists in all areas of taxation so you can rest assured we will get this right for you even in the most complex situations.

Licensed accountants are only able to deal with non-contentious estates but if a contentious issue does arise, it will have to be dealt with by a solicitor and then the estate will be passed back to us when the matter is resolved.

We are fully qualified, fully insured and are bound by the ICAEW Code of Ethics.

The code requires us to ensure our clients understand from the outset the fees we will be charging.

Unlike many probate practitioners who charge a percentage of the value of the estate, we will charge on a time cost basis. That way you will only ever pay for work actually undertaken. We will always ensure that the fees are fair and reasonable based on the work done and the complexity of the case. Not only that, but we will also let you have an indication of the estimated costs at the outset and will let you know if these costs are likely to be increased.

The current charge out rate for our Qualified Probate Practitioners is £160 plus VAT per hour. Administration work carried out by our non-qualified staff will be at a significantly reduced rate.

With our specialist knowledge we not only offer a full service but will ensure you will be dealt with personally by a dedicated team member.



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More details of our Probate service can be found on our website mfw.co.uk

What we can do for you

We can do as little or as much of the probate work as you choose, but our services can include:-

1. Register the death;
2. Organise the funeral;
3. Prepare and submit tax returns to the date of death;
4. Assist with the application for the appropriate Grant;
5. Prepare the papers for application for the appropriate Grant;
6. Obtain the Grant;
7. Prepare any inheritance tax return;
8. Settle the Inheritance tax and obtain clearance from HMRC;
9. Place statutory notices of death in the London Gazette and the local paper;
10. Ensure the appropriate oaths are prepared and taken;
11. Take control of and gather in the assets of the estate;
12. Pay the debts of the estate including tax liabilities;
13. Finalise the estate tax;
14. Pay bequests and transfer the balance to the residuary beneficiaries;
15. Prepare and submit income tax returns from the date of death and
16. Prepare estate accounts.



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The first steps

We are able to assist with all aspects of the deceased estate even those you consider would have to be dealt with by a relative including:-

Registering the death

Although this would normally be carried out by a family member (which is the preferred option of the registrar) it is something we can undertake on your behalf. A death certificate showing the cause of death is taken to the register office within 5 days of the death. The exception to this would be if a coroner's report is required.

Funeral Arrangements

Once again, this is normally undertaken by the family but is something we can arrange if required by the personal representative. In the first instance, we would always look to see if the deceased left any specific instructions in relation to the funeral such as whether they wanted a burial or cremation.

Dependants

There may be dependants of the deceased who will need continuing care. This is often dealt with in the deceased's Will, so we will ascertain whether arrangements have been put in place and if not we will coordinate the appropriate requirements.

Secure property

It is the personal representative's duty to protect the assets of the estate. If there is an empty property we will ensure that the property is insured with the correct cover, the water system is drained down and the heating is turned off. We will also consider who else may have held keys to the property and if necessary change the locks.

Any other property such as cars, jewellery, collectables etc., will be placed in storage for safe keeping and we will ensure they are adequately insured. These assets will not be handed to the beneficiaries until the validity of the Will has been established.

Review the Will

A thorough review of the Will will be undertaken to ensure it is valid and current.



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What you can expect from us

We understand that dealing with the estate of a family member or loved one can be very distressing so if you are appointed as an executor or administrator, you can instruct us to assist you. We will ensure that we will make the process as straightforward as possible.

When you first contact our office you can expect a dedicated team member to talk you through the services we can offer. We can discuss the options to enable you to establish exactly what you would wish us to help you with.

If you prefer we will be able to set up a meeting at this stage, where we will identify what is in the estate and if there is a Will. If there is not a Will then we will create a brief family tree of the deceased with your assistance, which will identify the beneficiaries if the estate is administered under the intestacy rules.

Once we are aware exactly what you would like us to do on your behalf we will send you a letter of engagement. Thereafter you can have peace of mind that we will carry out your instructions in a professional, caring and efficient manner.



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Types of Grants

A Grant of Representation is a Court Order obtained in the High Court giving one or more people authority to administer the estate

The three types of Grant of Representation are :

Grant of Probate – used when the deceased left a Will appointing executors and they are willing to act

A Grant of Letters of Administration with Will Annexed – used when the deceased left a will but did not name an executor, the executor is deceased, the executor renounced his right to act or the executor is a divorced spouse.

A Grant of Letters of Administration - used where the deceased has not left a valid Will.

A Grant is not normally needed if :-

- The estate if valued at under £5,000
- The estate does not include land, property or shares
- All assets were held jointly and they all pass to the surviving person
- Any bank or building society accounts with less than £5,000 each. (Although it is recommended to seek the requirements of the individual banks).



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Personal Representative explained

The person who is going to administer the estate after the death is known as a personal representative.

There are two types of personal representative, an 'executor' who is appointed in the Will or the 'administrator' when there is no Will or no-one willing to act as executor.

It is possible for either the executor or administrator to appoint a personal representative. It is this person named on the Grant of Representation who is legally responsible and ultimately liable for the administration of the estate.

It is therefore very important that you consider carefully who is named on the Grant of Representation as it carries huge responsibilities. If you are a personal representative of an estate you will be able to instruct us to do this on your behalf.

The executor named in the Will can deal with the deceased estate immediately, however an administrator cannot deal with the estate until the grant is issued.

Also it is worth noting that if a person deals with a deceased's estate (with exception of humanity or necessity reason) without authority, it is known as intermeddling and that person may become personally liable for the inheritance tax and the assets "meddled" with.

The duties of the personal representative will include

- to determine the assets and liabilities of the estate;
- to protect those assets;
- to obtain the Grant of Representation, where needed;
- to collect in all assets, including taking action to recover debts due, within a reasonable timescale and to administer the estate in accordance with the law;
- to settle any tax liabilities and deliver tax returns as required (the IHT account should be submitted within 12 months of death);
- to distribute the estate in accordance with the Will or the intestacy rules; and
- to manage the estate correctly.

Personal representatives have a fiduciary duty to the beneficiaries of the estate and owe them a duty of care. They are personally liable for any loss caused as a result of a breach of their duty.

The appointment of a personal representative is for life and is not discharged once the estate is finalised. Therefore if additional income becomes available or claims are made against it in the future, the personal representative will have to deal with it.



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Intestacy Rules

If a person dies and has not left a Will or the Will that has been left is invalid that person is said to have died 'intestate'. In England and Wales the Administration of Estates Act 1925 sets out who shall deal with estate and inherit the assets.

Since 1st October 2014 the position has been as follows:-

| Family at date of death | Entitlement |
|--|---|
| Spouse or Civil Partner | Everything providing they survive 28 days after the deceased. |
| Spouse or Civil Partner and Children | Spouse or civil partner receives: <ul style="list-style-type: none"> • All personal Chattels • A statutory legacy of £250,000 • Half the remainder Children share one half of the remainder either absolutely or in trust if under 18. |
| Spouse or Civil Partner and near relatives | Spouse or civil partner receives everything. |
| Surviving children only | The estate is shared equally between them. |
| If no spouse, civil partner or children | The payment hierarchy is: <ul style="list-style-type: none"> • Parents • Siblings of whole blood, or if they have died their children • Siblings of half-blood, if they have died their children • Grandparents • Uncles and aunts of whole blood or their descendants • Uncles and aunts of half-blood or their descendants • The crown |



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What is contentious probate work?

We can act for the personal representatives in all aspects of non-contentious probate work, and if any contentious matters arise, solicitors would need to deal with that aspect and, once resolved, we could continue to deal with the estate.

Contentious matters would include issues such as:-

- Disputes relating to the will, (such as claims of undue influence or doubts over the mental capacity of the testator)
- Litigation involving the construction of wills
- Applications under the Inheritance (Provisions for Family and Dependant's) Act 1975
- Actions against personal representatives for breach of trust, fraud or negligence
- Applications to remove or replace personal representatives
- Trust litigation in respect of property.



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Domicile Status

It is important to work out the domicile status of a deceased person as it will have an effect on the estate and the calculation of Inheritance tax (IHT).

Where there is no IHT to pay on an estate this is known as an excepted estate. This includes the estate of a foreign domiciliary providing the gross value of the estate in the UK does not exceed £150,000 and the following applied:-

- deceased was domiciled outside the UK at the date of their death,
- had never been domiciled in the UK during their lifetime,
- had never been deemed to be domiciled in the UK
- their estate in the UK only consisted of cash, quoted shares or securities passing under their Will.

Where IHT is payable, working out the domicile status of the deceased is also very relevant. If the deceased was domiciled in the UK the IHT is calculated on the whole of their worldwide assets. However if the deceased was not UK domiciled the IHT liability only arises on assets deemed to be situated in the UK.

Since 6th April 2017 an individual is be deemed domiciled in the UK if :-

- They were domiciled in the UK at any time within three calendar years immediately preceding the relevant time (death or gift)
- They were a formerly domiciled resident in the tax year in which the relevant time falls, or
- They have been resident in the UK for at least 15 out of the previous 20 tax years immediately preceding the relevant tax year and for at least one of the four tax years ending with the relevant tax year.



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Taxation

Inheritance tax

Inheritance tax is due six months after the end of the month in which the death occurs. This is paid even if the IHT account has not been delivered to HMRC, as this is not due until 12 months after the end of the month in which the death occurs. However if the IHT 400 is filed sooner than six months the IHT is payable when the form is filed.

If payment cannot be made on time interest will accrue on the tax due. It is however possible to pay the tax due in instalments together with interest.

There are many reliefs and exemptions to take into account when calculating IHT and as specialists we will ensure that these have been correctly claimed and applied. For instance if the deceased has left at least 10% of their estate to charity the rate of IHT is reduced.

It will also be necessary to look at all transfers made by the deceased during the 7 years prior to death.

There are so many aspects of the deceased estate to look into when completing the IHT forms we would always recommend seeking professional advice.

Tax on the deceased estate

A final account of the deceased estate will need to be prepared and any tax due (including possibly CGT) will be calculated and paid.

Tax Prior to Death

There may be tax due to HMRC relating to the period prior to death, which we can assist with.



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Provision of Services Regulations

Licensing Body

McCabe Ford Williams is Licensed by the Institute of Chartered Accountants in England and Wales to carry out the reserved legal activity of non-contentious probate in England and Wales, under Licence number C005241462.

Complaints

In the unlikely event that we cannot meet our liabilities to you, you may be able to seek a grant from ICAEW's Compensation Scheme. Generally, applications for a grant must be made to ICAEW within 12 months of the time you become aware, or reasonably ought to have been aware of the loss. Further information about the scheme and the circumstances in which grants may be made is available on ICAEW's website: www.icaew.com/probate

If you would like to talk to us about how we can improve our service to you, or if you are unhappy with the service you are receiving, please let us know by contacting Amanda Ireland, our head of legal practice. We will consider carefully any complaint that you may make about our probate services as soon as we receive it and will do all we can to resolve the issue. We will acknowledge your complaint within five business days of its receipt and endeavour to deal with it within 8 weeks. Any complaint should be submitted to us by letter.

If we do not deal with it within this timescale or you are unhappy with our response we give you, you may of course take the matter up with our professional body the Institute of Chartered Accountants in England and Wales and the Legal Ombudsman. Complaints to the Legal Ombudsman should be made within six years of the act or omission or within three years of you becoming aware of the issue, and in either case within six months of our written response to your complaint to us. The contact details for the Legal Ombudsman are:

Letter: The Legal Ombudsman, PO Box 6806, Wolverhampton WV1 9WJ,
Email: enquiries@legalombudsman.org.uk
Telephone: 0300 555 0333

Professional Indemnity Insurance

We have professional indemnity insurance in place in accordance with the requirements of ICAEW. Our professional insurance cover is up to a maximum of £25,000,000 and is capped at this level.

VAT

McCabe Ford Williams is registered for VAT under registration no. 203 2482 09.



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McCabe Ford Williams

Probate Contact Form

Your name

Address

.....

.....

Preferred contact tel no.

Deceased name

Date of death

Relation to deceased

Please return the completed form to us either by:-

EMAIL probate@mfw.co.uk

POST McCabe ford Williams,
Bank Chambers,
1 Central Avenue,
Sittingbourne,
ME10 4AE

FAX 01795 428810

We will endeavour to contact you with 48 hours of receiving the form

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Glossary of Terms

Account

An account prepared by the executor or administrator of an estate.

Administrator

The person responsible for looking after the affairs of someone who has died without having made a Will.

Administration

If a person died intestate, someone could apply for a grant of administration allowing them to deal with the estate.

Administration (with Will annexed)

If there is a Will but the named executors have died or refused to act, or none were named, then letters of administration are granted but with the Will annexed.

Affidavits

A document sworn to be true.

Asset

Belongings of value including property and land, investments, vehicles and money.

Beneficiary

A person who benefits on the death of another either under the Will or on Intestacy.

Caveat

A document lodged at the Probate Registry to prevent a Grant being issued.

Chattels

Personal belongings for example furniture and jewellery.

Codicil

A legal document drawn up to make minor changes to a Will.

Deed of Variation

A legal document drawn up to alter or amend a Will after death.

Demonstrative Gift

A general legacy from a specific source of funds.

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A general legacy from a specific source of funds.

Discretionary Trust

A Trust in which money or property is held on behalf of one or more of those beneficiaries to be paid out to them at the discretion of the Trustees.

Estate

A term to describe an individual's entire assets and property.

Executor

A person named in a Will to administer the estate.

Grant of Letters of Administration

The document issued to a deceased's administrator to authorise the administrator to deal with the estate.

Grant of Probate

The document issued to the executors of a Will, which allows them to administer the estate.

Guardian

Those appointed by the deceased to make decisions about their children.

Inheritance Tax (or IHT)

A tax on the value of a deceased's estate.

Intermeddles

Where an executor takes steps to administer an estate prior to renouncing their right to do so.

Intestate/Intestacy

Describes someone who has died without a valid Will and the subsequent administration of that estate.

Legacy

A gift given by someone after death through a Will.

Life Interest

A gift of property or interest in an asset for a person's lifetime.

Nil-Rate-Band

The amount of money or value of an estate before inheritance tax becomes payable.

Pecuniary Gift

A gift of money in a Will.

Personal Representative

A deceased's Executor(s) or Administrator(s).

Probate Registry

A division of the High Court responsible for issuing Grants of Probate and Grants of Letters of Administration and settling disputes relating to estates.

Renunciation

Where the named executor renounces their right to administer the estate.

Residuary Gift

The gift of the deceased's residue estate.

Residue

What is left of an estate after specific gifts, legacies and debts have all been paid.

Specific Gift

The gift of a particular item, sum of money or other asset to a beneficiary.

Testate

A phrase used to describe someone who has died having made a valid Will.

Testator/Testatrix

A person who has made a Will.

Trust

Where assets are looked after by Trustees for the benefit of one or more persons.

Trustee

A person or persons who look after and manage the Trust and the Trust assets until such time as the Trust is brought to an end.

Will

A written document outlining a person's wishes to include the appointment of Executors, Guardians and the gift of money or assets to one or more beneficiaries.

Witness

One of two persons who together watch the Testator sign his or her Will and then sign it in his or her presence to validate the Will.



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