

Wills, trusts and inheritance disputes glossary

ACTAPS: The Association of Contentious Trust and Probate Specialists

Alternative Dispute Resolution (ADR): various methods of resolving disputes without going to court.

Beneficiary: a person entitled to benefit from a trust or a Will.

Bequest/Legacy: a gift left in a Will.

Capacity (also mental capacity): being able to make a decision at the time it is needed.

Caveat: a way to stop probate from going ahead, for example because of a dispute.

Counsel: the term used within the legal profession for a barrister.

Court of Protection: a court that specialises in protecting the rights of people who do not have mental capacity.

Deed of variation: a deed by which the beneficiary under a Will or intestacy redirects the gift to some other person (who may or may not be a beneficiary of the estate).

Deputy: someone appointed by the Court of Protection to make decisions for someone who lacks mental capacity.

Estate: the aggregate of all the property to which a person is beneficially entitled.

Execution of Will: the process by which a testator's Will is made legally valid. The Will must be signed at the end by the testator or someone authorised by them, and the signature must be made or acknowledged by the testator in the presence of at least two witnesses, present at the same time, who must themselves sign the Will or acknowledge their signatures in the testator's presence.

Executor: a person appointed in the Will to administer the testator's estate.

Grant of probate: a document issued by the Probate Registry authorising the executors to administer the estate.

Intestate: the state in which a person dies without having made a will disposing of all his property.

Intestacy rules: the intestacy rules (set out in the Administration of Estates Act 1925) determine who gets what if a person dies without making a Will.

Issue of proceedings: proceedings are started when the court issues a claim form at the request of the claimant.

Life interest: the right to receive the income or benefit from a property or capital sum (but not the capital sum itself) for life.

Litigation friend: a person who gives instructions on behalf of a child or an adult who lacks capacity.

Mediation: a form of alternative dispute resolution where an independent third party (mediator) assists the parties involved in a dispute to achieve a mutually acceptable resolution.

Mutual Wills: two Wills are mutual if there is an agreement between the two testators (typically husband and wife) that the Wills should not be revoked.

Nuncupative: a Will declared orally before witnesses rather than written, usually by a testator on their deathbed.

Personal representatives: a person entitled to deal with a deceased person's estate in accordance with their Will or under intestacy rules.

Proprietary estoppel: a principle that allows a court to intervene where it would be wrong to allow a person to deny a non owning party a share of ownership (usually of a house). Various requirements must first be met to allow a person to rely on this principle.

Probate: the process of administering someone's estate (including money, property and belongings) after they die. If the estate has significant assets a formal grant of probate must be obtained from the court so the estate can be collected and divided between the beneficiaries identified in the Will.

Proving the Will: making an application for probate to the Probate Registry.

Settlor: a person who creates a settlement.

Settlement: a disposition of land or other property, made by deed or Will under which trusts are created by the settlor designating the beneficiaries and the terms on which they are to take the property.

Testator (or testatrix): a person who makes a Will. Testatrix denotes the female whereas testator is often used interchangeably for a male or a female person who makes a Will.

Trustee: a person having a nominal title to property they hold for the benefit of one or more others, the beneficiaries.

Trust: a trust is set up to give assets to other people (the trustees) to hold for the benefit of others (the beneficiaries). A trust can be used as a practical tool for inheritance tax planning.

Will: a document by which a person (called the testator) appoints executors to administer his estate after his death, and directs the manner in which it is to be distributed to the beneficiaries he specifies.