

A Guide to Caveats, Warnings & Appearances

Sometimes, whilst preparing to apply for a grant of representation (being either a grant of probate or letters of administration), someone else may have concerns they want to raise, for example, they may question the validity of a Will, they might believe there is a Will on an intestacy, or they might simply wish to bring a probate claim. That person may then 'enter a caveat'. This effectively prevents a grant from being issued, and allows that person time to gather evidence or advance their claim. Understanding how to deal with and respond to a caveat is essential, and we can help with this.

KEY POINTS TO NOTE



WHO & FOR HOW LONG?

Anyone over the age of 18 with an interest in the estate (or a different interest from the person applying for the grant) can enter a caveat. It lasts for 6 months and can be renewed every 6 months until it is removed.



WHAT TO DO: THE WARNING

If you disagree with a caveat, you can 'issue a warning'. This states your interest in the estate and gives the 'caveator' 14 days to respond to the warning, or issue and serve a 'summons for directions'.

If they do not respond, you can apply and ask for the caveat to be removed, so that you may proceed with the administration.



THEN WHAT: THE APPEARANCE

If you warn the caveat, as set out above, the 'caveator' can respond by 'entering an appearance' within 14 days.

Effectively, this is them setting out how/why their interest conflicts with those applying for the grant. Then, unless the caveator applies for a grant for themselves, a grant cannot be issued to the party whom originally applied for it, without an Order from a District Judge/Registrar.

Until a probate claim is issued, the caveat will then remain in force.



HOW TO REMOVE A CAVEAT?

The caveat falls away where:-

1. It is withdrawn (as long as they have not 'appeared to a warning' against it); or
2. A District Judge/Registrar orders it to be removed following a summons for directions; or
3. A claim is issued in the High Court; or
4. No appearance to a warning and no summons for directions; or
5. It was issued to start citation proceedings and either 2 or 3 above take place, or the citation proceedings end.



NEXT STEPS

If you are faced with a caveat, or wish to lodge one - and/or are considering bringing/defending a claim, our dispute resolution team are readily available to assist you.

We can provide expert guidance, and walk you through the process and prospects of success (where necessary).

Please feel free to get in touch using the contact details at the foot of the page, and see how we can help you resolve any issues that you are experiencing.

