

Applying for the Grant of Probate or Letters of Administration, collecting and distributing the assets, paying liabilities including inheritance tax and legacies

There is no getting away from it this is not a pleasant experience, but we try to do our best to make it easier for you. Clients often say that when they have handed over all the paperwork in a loved one's Estate to us that they feel as though a great burden has been lifted from their shoulders. It is a very responsible and time-consuming role acting as an Executor (appointed under someone's Will) or Administrator (next of kin where there is no Will) and you are personally liable for your actions. Some people think that where there is a Will there is no need for Probate. Probate or Grant of Letters of Administration (where there is no Will) is the Personal Representative's proof that they have the power/authority to deal with the assets in the Estate. An official copy of the Grant must be produced to each financial institution to release the asset eg Land Registry for properties, bank and building societies. The latter have a discretion as to how much they will release without sight of the Grant and they undertake a risk assessment. Some banks eg Lloyds will release up to £50,000 without asking for a Grant. You can extract a Grant personally. The Probate Registry charges a fee which is currently £273.

We can act for you:-

- Where there is a Will (must be valid eg signed in accordance with the Law)
- Where the original Will has been lost and a copy needs to be proved
- Where the original Will has been altered or marked
- Where there is no Will
- Whatever assets are in the Estate; we can even assist if there are assets overseas although we may have to liaise with a lawyer in the foreign country
- Where there are debts to repay eg mortgage or equity release
- Where there are businesses or farms involved and Business Property Relief or Agricultural Relief is applicable
- Where there are properties or shares to be sold or transferred
- Where there are bonds or life policies to claim
- Where there are products (eg premium bonds, income bonds, accounts) with ns&i (National Savings)
- Where there are ISAs and arrange for transfer of ISA allowances to surviving spouses
- Where there is no inheritance tax to pay

- Where you need to claim all or part of a deceased spouse's nil rate band allowance
- Where you need to claim charitable exemption or reduced inheritance tax rate from 40% to 36%
- Where a trust has been set up; whether it is discretionary or a life interest – tenants in common
- Where you want to bring a trust to an end by appointing assets out of it
- Where direct descendants need to claim all or part of deceased's residence nil rate band even when there has been downsizing after 8th July 2015
- Where inheritance tax is due, calculate the amount, arrange payment and obtain a clearance certificate
- Where too much inheritance tax is paid on shares or property which are subsequently sold for less than originally declared to HMRC
- Where the Department for Work & Pensions reclaim benefits
- Where the Beneficiary wishes to redirect their inheritance if they anticipate that they will have an inheritance tax liability on their death to avoid 7 years lifetime gifting rules
- Where the Beneficiary wishes to give up their life interest so that the ultimate Beneficiaries inherit sooner rather than on their death
- Where there have been cumulative lifetime gifts made of less than £325,000 within 7 years of death of death
- Where there have been cumulative lifetime gifts made of more than £325,000 within 7 years of death of death and tapering relief applies
- Where there has been a gift with a reservation eg the deceased carried on receiving the rent of a gifted rental property
- Where there have been regular lifetime gifts out of surplus income
- Where there are private and occupational pensions and annuities

Estimates

We will provide you with an Estimate of our professional charges at the outset. The questions we will ask are:

- How many Executors or Administrators are there?
- Roughly how much is the Estate worth excluding the home?
- If there is a home in the Estate how much approximately is that worth?
- If there are properties in the Estate are they being sold or transferred?

- How many different financial institutions are involved? Eg. There could be 3 accounts with Santander, 2 accounts with the Halifax and 1 account with Nationwide. Although there are 6 accounts for us to deal with there are only 3 financial institutions.
- Are there any shareholdings? If so, how many different companies are involved?
- How many beneficiaries are there?

The exact cost will depend on the individual circumstances of the matter. For example, where there is one Executor, 3 financial institutions with total values of £100,000, no shares or home and 3 beneficiaries our professional charges would be £2,950 + VAT of £590. Whereas if there were 2 Administrators, 6 financial institutions with total values of £650,000, 4 shareholdings, a home worth £400,000 and 6 beneficiaries our professional charges would be £9,575 + VAT of £1,915.

We will handle the full process for you apart from the preparation of income/capital gain tax returns when we usually engage the services of an Accountant who will make a separate charge. Hargreaves Gilman does not specialise in contentious or litigious matters so if a dispute arose between beneficiaries or clients or the validity of the Will is challenged (on the grounds of mental incapacity of the deceased, undue influence, lack of understanding when the Will was signed or suspicious circumstances) or a claim for insufficient provision under a 1975 Act was brought against the Estate you would have to consult another firm of Solicitors.

Disbursements (costs payable to third parties):

- Probate application fee of £273 for the first official copy Grant of Representation plus £1.50 each additional official copy
- Electronic ID checks for Personal Representatives, Beneficiaries and the person who has died. These cost £2.82 + VAT per person
- Bankruptcy search fees £2 for Personal Representatives and Beneficiaries each person

Fixed Fees

There may be parts of the administration of the Estate which we undertake on a fixed fee basis as they are not applicable in every Estate:-

- Deed of Variation (where a Will or the Intestacy Rules are rewritten within 2 years if all are in agreement, have capacity and are over 18 years); typically £650 + VAT of £130 totalling £780
- Deed of Assent (where the beneficiary wishes to be registered at the Land Registry as proprietor of the home); typically £650 + VAT of £130 + land registry fee based on scale 2 electronic submission if already registered at the land registry [Land Registration fees](#). We submit applications via the portal.
- Deed of Renunciation (where the named Executor does not wish to be involved); typically £150 + VAT of £30 totalling £180
- Power of Attorney (where the named Executor wishes to appoint an Attorney to act); typically £150 + VAT of £30 totalling £180
- Deed of Appointment (where assets are being appointed out of a Trust); typically £450 + VAT of £90 totalling £540
- Deed of Appropriation (where a Beneficiary wants to have a particular asset transferred to them rather than it be sold and take their share of the sale proceeds); typically £300 + VAT of £60 totalling £360
- Deed of Indemnity (where Beneficiaries indemnify Executors against any costs and claims on distribution of an Estate); typically £250 + VAT of £50 totalling £300

Example – Simple Estate

Estate of House £200,000 (to be registered into names of 2 beneficiaries), bank account of £10,000; and one Executor and two beneficiaries.

<u>Estimate for Administration of Estate</u>	£2,550.00	
<u>Fixed Fee: Deed of Assent</u>	<u>£650.00</u>	
Fees:		£3,200.00
VAT @ 20%		£640.00
<u>Disbursements</u>		
Probate Registry fee	£273.00	
Land Registry fee	£33.00	
Bankruptcy search fees x 3 people	6.00	
Electronic ID check (Smart Search) x 4 people	<u>£11.28</u>	

Third party Fees **£323.28**

VAT @ 20% **£2.24**

Grand Total inc VAT **£4,165.52**

Example – Complex Estate – Form IHT400 plus Supplementary Pages

Estate of House £400,000, bank accounts with 3 financial institutions totalling £650,000; four shareholdings, two Executors and six Beneficiaries (two of whom are also the Executors). Deed of Variation to amend terms of the Will.

Estimate for Administration of Estate £9,575.00

Fixed Fee: Deed of Variation £650.00

Fees: **£10,225.00**

VAT @ 20% **£2,045.00**

Disbursements

Probate Registry fee
incl. 6 official copies @ £1.50 each £280.50

Land Registry search fee 3.00

Bankruptcy search fees x 6 people 12.00

Electronic ID check (Smart Search) x 7 people £19.74

Third party Fees **£316.74**

VAT @ 20% **£3.92**

Grand Total inc VAT **£12,590.66**

Completion of the more involved HM Revenue & Customs Form IHT400 and supplementary pages is more time consuming. Where there are more assets or complex assets eg shares to be sold or transferred or more beneficiaries to correspond with the time required will be increased and this is reflected in our Estimate. Where inheritance tax is payable we will make the necessary arrangements for sufficient funds (provided there is enough in the deceased's bank accounts) to be released to pay the tax direct to HMRC's bank account.

Additional disbursements may be recommended as follows depending on the circumstances:-

- £160 approx. Post in The London Gazette – Protects against unexpected claims from unknown creditors.
- £80 approx. Post in a Local Newspaper – This also helps to protect against unexpected claims

Our Conveyancing Solicitors will act on behalf of the Executor or Administrator in the sale transaction for which separate fees will be charged.

Stages and Time Scales involved in the administration of an Estate

- Verifying your identity and complying with anti-money laundering regulations
- Ascertaining and obtaining valuations of assets and liabilities comprised in the Estate. This can take 3 – 4 weeks because we are in the hands of the financial institutions, utilities companies, funeral directors, DVLA etc.
- Preparing the online probate application via the Portal. Sometimes, a paper application (Form PA1P (where there is a Will) or PA1A (where there is no Will) have to be submitted instead. Preparing the relevant HMRC Account (Form IHT205 or IHT205 and IHT217 (for deaths occurring after 1st January 2022 these Returns do not need to be submitted but the figures for the net, gross and inheritance values are transferred to the probate application so we still do prepare them for the personal representatives to approve) or Form IHT400) for signature by you. Once all the financial information has been gathered this stage takes about 1 – 4½ hours depending on whether there is an inheritance tax liability ie whether the less complex Form IHT205 or Form IHT400 with supplementary pages is required
- Making the necessary application to the Principal Probate Registry via the online Portal or to Newcastle if a paper application must be submitted. All applications submitted centrally to the Principal Registry are allocated to district registries depending on capacity. The time taken for this stage depends on you and how quickly you sign and return the documentation
- Receiving the Grant of Representation and producing official copies and withdrawal forms signed by you to the asset holders. It usually takes the Where Form IHT400 is required the Return is posted to HMRC first. We then have to wait 20 working days for HMRC to issue us with a code which we then submit via the Probate Registry's portal to generate the Legal Statement for signature by the Personal Representatives. We will then apply for the Grant. Probate Registry 16 weeks to issue the Grant but will take longer where there is inheritance tax to pay. We produce the Grant to the financial institutions within a week of receiving it
- Collecting in the assets. This should just take a week, but unfortunately financial institutions are not that quick in releasing funds after sight of the Grant. Sometimes this can take up to 3 weeks. Sale of shareholdings either via a

Stockbroker or the Company Registrars takes longer than closing a bank account

- Transferring assets and dealing with the Land Registry and Company Registrars
- Discharging all known liabilities once we have collected in sufficient assets to pay all bills at the same time
- Paying legacies, if any. Once we have collected in sufficient assets to pay all legacies at the same time and we have received a Preferred Method of Payment form from each beneficiary
- Producing Estate Accounts to the Personal Representatives and the Residuary Beneficiaries for approval. Once all assets have been collected in and all bills and legacies have been paid we circulate the Accounts which includes our interim bill. Often our interim bill is converted to our final bill
- Undertaking electronic verification ID checks and bankruptcy searches against the Beneficiaries prior to payment of legacies and distribution of the Residuary Estate
- Attending to distribution of the Estate in accordance with the terms of the Will or under the Intestacy Rules, if there is no Will. If there is a house to sell this usually takes longer so we attend to an interim distribution of the liquid Estate typically retaining up to £5,000 to meet future liabilities connected with the property
- The length of time taken to administer an Estate usually depends on how widespread the assets are; the nature of the assets; the number and location of the Beneficiaries and Personal Representatives. Under normal circumstances the administration of the Estate should be completed within six months. In more complex cases and where there is inheritance tax to pay the administration will take longer.

Extraction of Grant of Probate or Letters of Administration

We can undertake extraction of the Grant of Representation whether there is a Will or not on a fixed fee basis.

Where the value of the Estate is less than £325,000 (the current IHT threshold) or less than £3,000,000 and there is no inheritance tax to pay because of spouse, civil partner or charity exemption

£1,000 + VAT £200 = £1,200

Where the value of the Estate is less than £650,000 (twice the current IHT threshold) and we can claim an

intact nil rate band allowance from a predeceased spouse

£1,150 + VAT £230 = £1,380

Where there is inheritance tax to pay or the estate is worth more than £650,000 and you need to claim a residence nil rate band allowance and/or transfer of a late spouse's unused allowances to wipe out the inheritance tax liability a HMRC Form IHT400 and supplementary pages is required

£1,350 + VAT £270 = £1,620

Where there is inheritance tax to pay we will arrange for this to be paid direct from the deceased's funds in addition to preparation and submission of IHT400 and online probate application

£1,850 + VAT £370 = £2,220

The fees paid to others are £273 (+ 1.50 per official copy) to the probate registry

As part of our fixed fee we will:

- Provide you with a dedicated and experienced probate solicitor to work on your matter
- Identify the legally appointed executors or administrators
- Accurately identify the type of Probate application you will require
- Obtain the relevant documents required to make the application
- Complete the Probate Application and the relevant HMRC forms
- Make the application to the Probate Registry on your behalf
- Obtain the Grant and official copies and pass to you to administer the Estate in accordance with the terms of the Will or Intestacy Rules

Once you have provided us with the valuation of the assets and the amount of outstanding debts including the funeral expenses, a copy death certificate, two forms of ID for you and the deceased's national insurance number we can complete the relevant HMRC form and probate application within 10 working days. Once you have signed the papers, we submit the probate application; it usually takes 16 weeks to receive the Grant. If the HMRC forms have to be submitted to the Revenue this process takes longer as HMRC have to issue us with a code (even if there is no

inheritance tax payable) which takes 20 working days. We provide this code to the Probate Registry. The 16 weeks commences once we receive acknowledgement from the Probate Registry.

We hope that you find this information easy to follow but if not please telephone on 0161 443 1711 to make an appointment to see James Cox (or email him) so that he can explain to you, face to face where possible, what you need to suit your circumstances and what the likely costs are. If you then decide not to instruct Hargreaves Gilman you have not incurred any costs.

Solicitors

Head of Wills & Probate Department/Supervisor/Director: Deborah Millington (deborahmillington@hargreavesgilman.com)

Hourly rate: £250 + VAT = £300 Qualified in September 1992 and specialised exclusively in this area of the law ever since with experience in drafting Wills, Deeds of Variation, Assents, Gifts of residential properties, Deputyship applications, preparation of Powers of Attorney and administration of Estates

James Cox jamescox@hargreavesgilman.com

Hourly rate £235 + VAT = £282 Qualified in March 2021 and specialised in residential conveyancing and the administration of Estates until joining Hargreaves Gilman on 7th March 2022 since when he has specialised exclusively in the administration of Estates

Tony Learoyd (tonylearoyd@hargreavesgilman.com)

Hourly rate: £235 + VAT = £282 Qualified in June 2015 and specialised exclusively in this area of the law ever since with experience in drafting Wills, Deeds of Variation, Assents, Gifts of residential properties, Deputyship applications, preparation of Powers of Attorney and administration of Estates

Secretary

Gwyn Hughes (gwynhughes@hargreavesgilman.com)

Joined Hargreaves Gilman in July 2003