

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 £155 where a solicitor applies or £215 where a member of the public applies.

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 original 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

There are two elements to how we calculate our professional charges. Time and Value.

Time Element

How long is spent on the file in units of 6 minutes. How many letters in, how many letters out, time spent on the telephone, drafting documentation and time spent in meetings. Our hourly rates are £235 (senior Solicitor) or £200 (junior Solicitor) plus

VAT. A straightforward Estate could take 4-5 hours and very complex Estates up to 30 hours.

The exact cost will depend on the individual circumstances of the matter. For example, if there is one beneficiary and no property, costs will be at the lower end of the range. If there are multiple beneficiaries, a property and multiple assets eg, bank accounts, shares, life policies, ns&i (national Savings) products, costs will be at the higher end.

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.

Value Element on high value Estates

In addition to the time element there may also be a value element depending on the level of risk associated with the administration of the Estate.

- 1% of the value of the sole named assets
- ½% of half the value of the home in the deceased's sole name

Disbursements (costs payable to third parties):

- Probate application fee of £155 for original Grant of Representation plus £1.50 each official copy

Fixed Fees

There may be parts of the process which we undertake on a fixed fee basis:-

- 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 £350 + VAT
- Deed of Assent (where the beneficiary wishes to be registered at the Land Registry as proprietor of the home); typically £450 + VAT + land registry fee based on scale 2 electronic submission if already registered at the land registry

[Land Registration fees](#)

- Deed of Renunciation (where the named Executor does not wish to be involved); typically £50 + VAT
- Power of Attorney (where the named Executor wishes to appoint an Attorney to act); typically £50 + VAT
- Deed of Appointment (where assets are being appointed out of a Trust); typically £350 + VAT
- 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 £250 + VAT
- Deed of Indemnity (where Beneficiaries indemnify Executors against any costs and claims on distribution of an Estate); typically £200 + VAT

Example – Simple Estate – Form IHT205

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>Time Element:</u> 4 hours @ £235	£940.00
<u>Value Element:</u> 1% x £10,000	£100.00
<u>Fixed Fee:</u> Deed of Assent	£450.00
Total Fees:	<u>£1490.00</u>
VAT	£298.00
<u>Disbursements</u>	
Probate Registry fee	£155.00
Land Registry fee	£30.00
Electronic ID check	£2.60
Total third party Fees	<u>£187.60</u>
VAT	.52
Grand Total inc VAT	<u>£1976.12</u>

Example – Complex Estate – Form IHT400 plus Supplementary Pages

Completion of the more involved HM Revenue & Customs Form IHT400 and supplementary pages usually adds a further 4 hours. 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. 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. We can give you a more accurate quote once we have more information.

If the value element exceeds the time element (ie the effort in administering the Estate) then it is reduced to equal the time element.

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

- Bankruptcy-only Land Charges Department searches (£2 per beneficiary)
- £160 Post in The London Gazette – Protects against unexpected claims from unknown creditors.
- £80 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 relevant Form PA1P (where there is a Will) or PA1A (where there is no Will) and the relevant HMRC Account (Form IHT205 or IHT205 and IHT217 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 Oxford District Probate Registry. All applications are now submitted centrally to this Registry which then allocates the work to other district registries depending on capacity. This 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 Probate Registry 8 - 12 weeks to issue the Grant but this can take longer where

there is inheritance tax to pay, say an addition 3 weeks. 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 this is done within one week
- Paying legacies, if any. Once we have collected in sufficient assets to pay all legacies at the same time this is done within one week
- Producing Estate Accounts to you 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
- 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 IHT205 HM Revenue & Customs form is applicable £700 + VAT

Where IHT205 and IHT217 HM Revenue & Customs forms are applicable £800 + VAT

Where IHT400 and supplementary pages HM Revenue & Customs form is applicable £1,000 + VAT

The expenses paid to others are £155 (+ 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 Form PA1P or PA1A within a week. Once you have signed the papers, we submit the papers to the Probate Registry; it usually takes 8 - 12 weeks to receive the Grant. If the HMRC forms have to be submitted to the Revenue this process takes longer as HMRC have to receipt one of the forms (even if there is no inheritance tax payable) which then has to be produced to 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 Deborah Millington (or email her on deborahmillington@hargreavesgilman.com) so that she can explain to you, face to face where possible, what you need to suit your circumstances and what the likely costs are. We can even discuss a fixed fee for the whole administration of the Estate or place a ceiling on our professional charges. 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

Hourly rate: £235 + VAT qualified in September 1992

Tony Learoyd (tonylearoyd@hargreavesgilman.com)

Hourly rate: £200 + VAT qualified in June 2015