

## **Procedure and costs re Probate and the administration of estates**

We have a very experienced, specialist private client team at Marshalls who are used to dealing with all manner of UK estates, large and small. If there are assets abroad we will liaise with lawyers in that country to deal with those assets.

We deal with and cost each estate on an individual basis and will not usually be in a position to provide you with a reasonably reliable fee estimate until after we have met to discuss the nature and value of the estate and the work to be undertaken by us and have had sight of relevant paperwork. There is no standard timeframe or typical cost for estate administration, as every estate is different. The information that follows below is by way of general guidance.

We will always provide you with an estimate of our fees at the start of the matter or as soon as practical. All our private client staff are specialists in this field. Our current hourly rates are as follows:

Partners/Consultants	£345 per hour
Managing Associate	£295 per hour
Senior Associate Solicitor/Chartered Legal Executive	£295 per hour
Associate Solicitor	£255 per hour
Newly Qualified Solicitor	£225 per hour
Trainee Solicitor	£150 per hour

(all plus VAT)

You can read the profiles of our private client team on our website. The solicitor involved may sometimes be assisted by a trainee solicitor or may involve other members of the team. Please note that our rates are reviewed from time to time (usually on an annual basis) and the applicable hourly rate could increase after such a review.

Our fees are calculated in accordance with The Solicitors Act 1974 and The Solicitors (Non-Contentious Business) Remuneration Order 2009. These allow us to take various factors into account when calculating our fees.

### **What is a Grant?**

If there are assets in the deceased's sole name, it is usually necessary to obtain a Grant. If there is a will this is known as a Grant of Probate. If there is no will (an "intestacy") it is called a Grant of Letters of Administration. The Grant enables the Executors of the Will or the Administrators

of an intestate estate (both also known as Personal Representatives) to be able to deal with significant assets such as the sale or transfer of a property, the sale or transfer of shares and the closure of bank accounts with large balances. The Grant is a confirmation by the court of the Personal Representatives' authority to deal with the assets. Sometimes banks will close bank accounts without sight of a Grant if the balances are not what the bank considers to be significant. If there is a property or there are shares it is very likely a Grant will be needed. Most jointly owned assets will pass automatically to the surviving joint owner without the need for a Grant.

### **Application procedure for a Grant**

In most cases (except relatively small estates passing to a surviving spouse or estates under the Nil Rate Band threshold for inheritance tax) an Inland Revenue Account IHT400 detailing the assets and liabilities of the estate, any trusts and any relevant lifetime gifts will need to be signed by the PRs and submitted to HMRC and any initial inheritance tax paid prior to the application to the Probate Registry for the Grant. The Grant application is made on the basis of a Legal Statement signed by the Personal Representatives and this is usually submitted online.

**We offer two main services: a Grant Only Service and a Full Administration Service.**

### **GRANT ONLY SERVICE**

Where the Personal Representatives are able to provide us with all necessary information in respect of the assets and liabilities of the estate we can assist by preparing the IHT400 if required and the Legal Statement for the PRs to sign and we will submit the papers to HMRC and/or the probate registry on your behalf. This would usually be our only involvement and you would deal with the rest of the administration. However, we would be happy to undertake additional work at the specific request of the PRs, in which case we would provide the PRs with a separate estimate for those services or to include those services in our initial estimate in our client care letter covering the application for the Grant (see Full Administration Service below).

### **Our fees**

Our fees for a Grant Only Service will be calculated mainly on the estimated time involved on the basis of the hourly rate of the person dealing with it. The time would include meetings; considering, preparing and working on papers; correspondence and making and receiving telephone calls. Our bill will include separate fees in respect of postage, telephone calls, faxes, photocopying, use of Information Technology as appropriate, and professional indemnity insurance.

The examples below of our Grant Only Service are not estimates but are provided for approximate guidance only. We will provide the Personal Representatives with a written

estimate setting out the basis of our fees as soon as practical and in some straight forward cases we may be able to carry out the work for a fixed fee.

### **Example 1**

Where an IHT400 is not required, our fees for a Grant Only Service for a straightforward matter are likely to be between £1,000 and £2,500 plus VAT and disbursements depending on the time involved and the person dealing with it.

### **Example 2**

Where an IHT400 needs to be submitted our fees for Grant Only Service for a UK estate could be anywhere between £2,500 and £10,000 plus VAT and disbursements to reflect the time involved. The broad range of fees reflects whether or not Inheritance tax is payable and how straight forward or otherwise the estate assets and liabilities are.

### **How long will it take to get a Grant?**

The Grant will usually be issued by the Probate Registry within a few weeks of the application but it is sometimes quicker and sometimes takes longer. We cannot control the time the probate registry takes to issue the Grant and paper applications (which are sometimes necessary) take longer than online applications. Please note that the probate registry cannot be chased for 12 weeks after the submission of the application.

If it is a simple and relatively small estate not involving an IHT400 we should be able to apply for the Grant within four to six weeks of receiving all the information we need from you.

It is likely to take longer to apply for the Grant in an estate where an IHT400 is required. We may need to raise money from the deceased's assets to pay Inheritance Tax, or arrange an Executors' loan. The IHT400 would need to be sent to HMRC and any initial tax paid. We cannot prepare the application for the Grant until we have received a code from HMRC and this usually takes 4 to 6 weeks to receive (this code is required from HMRC even when no tax is payable).

### **FULL ADMINISTRATION SERVICE**

This service is a bespoke service under which, as well as preparing the inheritance tax papers (if required) and probate papers leading to the application for the Grant, we can undertake as much or as little of the administration of the estate as we agree with the Personal Representatives. Our full service could include, in addition to the preparation of a IHT400 and the Grant application, visiting the deceased's house to gather relevant documentation and safeguard the house, registering the death, organising the funeral, notifying beneficiaries of their inheritance, contacting banks and investment managers and instructing professional valuers in order to ascertain the nature and value of assets as at the date of death, calculating

the taxable value of lifetime gifts, selling and/or transferring assets post Grant, paying liabilities and administration expenses out of estate funds, settling the deceased's personal tax affairs to the date of death or instructing accountants in this respect, dealing with administration tax returns where appropriate, dealing with the District Valuer and the Shares Valuation Division of the Capital Taxes Office and obtaining clearance for inheritance tax, the payment of cash legacies and interim and final distributions of the residuary estate to the residuary beneficiaries and the preparation of estate accounts and tax deduction certificates.

**Please note that we would estimate separately for any deeds of variation, conveyancing or the management of ongoing trusts.**

### **Our fees**

The administration of most estates would be dealt with by us mainly on a time-costing basis in accordance with an hourly rate. The time would include meetings; considering, preparing and working on papers; correspondence and making and receiving telephone calls.

Our bill will include separate fees in respect of postage, telephone calls, faxes, photocopying, use of Information Technology as appropriate, and professional indemnity insurance.

In some more complex estates or where the residuary beneficiaries include charities we may also charge a value element calculated on the value of the estate. This value element reflects the additional financial and personal responsibility of dealing with higher value or complex estates or estates where there is more risk involved. Where a value element is to be charged it would be on a regressive scale commensurate with the size of the estate. We would set out how the value element would be calculated in any written estimate provided to our client but the value element might usually be between 0.5% and 1.5% of the value of the gross estate, for example.

Every estate is different and it is not possible for us to provide a standard fee which fits all estates. The assets will differ, the provisions of the Will will differ and the circumstances of the deceased and the deceased's family will be different so that the time spent on one estate and the advice given could be very different from the time and advice on another estate even of similar value.

On receipt of details of the estate, we will provide a clear estimate of costs as soon as practical after a preliminary assessment. The estimate is not fixed and our final fees will depend on how much work is carried out and the time involved. We may need to re-assess our estimate during the course of the administration as further details or issues emerge. However, we will endeavour to keep you informed in writing as to costs throughout the administration and render interim accounts where appropriate as well as a final account on completion of the administration. Whatever the basis of our charges, we will review the matter as a whole on

completion to ensure that our fees are fair and reasonable in relation to the work done and the size of the estate.

The examples below are not estimates but are provided for approximate guidance only. If the estate is passing to only one beneficiary and there are only a few assets the fees are likely to be towards the lower end. If there is more than one beneficiary and/or multiple assets the fees might be towards the higher end. In some very straight forward cases we may be able to deal with the administration for a fixed fee.

### **Example 1**

For a straight forward estate where is no need to provide an Inland Revenue Account for inheritance tax (IHT400) to HMRC, our likely fees for the complete estate administration could be between £3,500 and £7,000 plus VAT and disbursements depending on the nature and number of assets, the number of beneficiaries and the time involved. This example assumes between approximately 10 and 20 hours work by a partner.

### **Example 2**

For a relatively straight forward estate but an IHT400 is required our fees for obtaining the Grant and administering the estate could be between £7,000 and £15,000 plus VAT and disbursements depending on whether inheritance tax is payable, the nature and number of assets and creditors, the number of beneficiaries and so the time involved. This assumes between approximately 20 to 40 hours' work by a partner.

If the estate is complicated more time is likely to be involved and our fees could be higher

### **Factors which could complicate the estate administration:**

There is no Will

If we need to instruct genealogists or tracing agents to find beneficiaries

There are no surviving or capable executors appointed in the Will

If there is any form of disagreement or dispute concerning the Will or the estate

Where inheritance tax is payable

Where an executor's loan is required for payment of inheritance tax

There is a farm or business or the deceased is a member of Lloyds of London or a Lloyds LLP

Significant lifetime gifts have been made by the deceased

The deceased left large debts, the deceased's affairs are in disarray, there is a potential claim from DWP or the Local Authority for overpaid benefit or care fees or it is an insolvent estate

Settling complex income tax and/or capital gains tax issues

There are foreign assets and/or questions of domicile

Share certificates, deeds or other significant paperwork is missing

Where there is no family to make funeral or other practical arrangements

Where an unusually large amount of communication is required between solicitor and client

Where charities are included among the residuary beneficiaries

Assets are not to be divided pro rata among the beneficiaries or we are required to enter into complex distribution schemes for tax planning or other reasons

Beneficiaries wish to vary the Will

### **Disbursements**

Disbursements are expenses related to the administration of the estate which are paid to third parties by us on your behalf. We may ask you to pay some expenses yourself or we may pay some small expenses on your behalf and add them to our bill as disbursements to ensure a smoother process. Some, but not all, will be liable for VAT. Please note that the cost of disbursements can change from time to time and we have no control over these costs. We aim to update the information on our website as soon as practical but the details of disbursements on our website may not necessarily be current. However, we will provide you with up to date information in respect of likely disbursements when we provide you with our written estimate.

Examples of disbursements include:

- Probate application fee of £300 (non-vatable)
- Sealed copies of Grant £1.50 each plus VAT
- Approximately £250 including VAT to advertise in The London Gazette and a local newspaper
- Fees charged by professional valuers (usually for property and personal belongings) will be advised during the course of the administration, as these vary
- Bank transfer fees for transfers over £50,000 to UK banks -£36 plus VAT per transfer
- Bank transfer fees to overseas banks-the fee depends on the bank and the country

- Bankruptcy searches (Land Charges Department) £6 plus VAT per UK beneficiary (but please note the cost will be significantly higher for non-UK resident beneficiaries)
- Land Registry search fees £7 plus VAT per title or per registered plan (more if copy documents required)
- Land Registry fees (non VATable) on the transfer of property vary depending on the value of the property and you will be advised during the course of the administration
- Inheritance Tax, Capital Gains Tax and income tax where applicable

### **How long will the estate administration take?**

In simple non-taxable estates we may complete the administration within six months to a year from the date of death, although if there is a house to sell this could delay matters.

Completion of the estate administration of a taxable estate could take at least a year and often longer. However, however it is usual to make interim distributions where practical to beneficiaries. The estate administration cannot be completed until all assets, debts, liabilities and claims have been dealt with.

Personal Representatives are usually advised to place statutory advertisements for unknown creditors and wait for the statutory period of two months to expire before paying any distributions.

PRs would be wise to delay distributing the estate until at least six months has expired from the date of the Grant if they anticipate any claims being brought under the Inheritance Act 1975.

If a Will is contested this could hold up the administration of an estate for a very long time.

Please note we do not deal with contentious probate matters but we would advise the personal representatives to instruct a specialist firm. We can liaise with them if required.

We cannot control how long third parties take to deal with matters and delay by others could have a knock-on effect on how long we take to deal with the administration.

**The above information is for guidance only and does not constitute a contract of any kind. The advice is general in nature and any legal or tax advice contained within it should not be relied upon for specific matters. Advice tailored to your particular matter should always be sought. We would be happy to assist with the application for a Grant and any or all aspects of the**

**administration of an estate. We will provide you with an estimate of our fees in relation to a specific matter on application.**

Contact us: Marshalls Solicitors LLP, 102 High Street, Godalming, Surrey, GU7 1DS

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**Email one of our team via our website**