

DUTIES of EXECUTORS

First duty: **DO NOT PANIC**

7 in 10 Executors panic and rush off to the nearest firm (or worse, bank) for help.

Probate fees vary dramatically up to £300 + VAT an hour and more. Probate expertise varies too – we specialise in it (hence the name!) But some will charge a commission of between 0.5% and 1.8% of the value of the estate **on top of** being paid their full hourly rate for the job. Others may charge 4 to 5% of the **gross** value of the estate (that means the total value of the estate **plus** any debts such as a mortgage.) We just charge for the time spent, and we don't charge you the solicitors rate when more junior staff are doing the more straightforward jobs.

At the time of writing our fees for such work could be less than half in some cases, and up to 80% less in other cases – we can help hold your hand or take over the whole workload if preferred, but still keep costs as low as possible. We have a DIY option – where you do most of the work and we just check it at the end and make sure the forms are correct based on the information you have supplied.

If there is any possibility of Inheritance Tax being due, we are well placed to help as our Head of Legal is a former tax barrister.

Always bear in mind that the work of executor must be done with extreme care, as the executors have a lifelong liability for any mistakes – such as missing a beneficiary or paying out to the wrong people!

Here are the basics:

1. **Register the death of the testator (the person who has died).** Obtain copies of the death certificate – almost certainly many copies will be required not only before the funeral takes place but also for each of the funds which may have to be released or transferred such as bank accounts, insurance policies, share, property etc. Many institutions are very slow at returning death certificates or don't return them at all, so the executor has to go back and ask for additional copies which are much more expensive than those bought at the time of registration.
2. **Arrange the funeral.** The cost will normally be the first expense paid for from the deceased's estate. Always check that the testator did not have a pre-paid funeral (we always recommend them.) The deceased's bank may be willing to pay for some or all of the funeral from the clients account if it has sufficient funds.
3. **Find the Will.** For clients who have joined our Peace of Mind Service, this is easy – if not you will have to keep looking until you find the signed Last Will and Testament – do make sure it is the most recent one, as a new Will cancels an old one, and you may find an older version, which can cause all sorts of problems.
4. **If you are confident in your administrative skills and understanding, read on.** Otherwise call us on 01323 406 299.
5. **Apply for a Grant of Probate form** via the nearest Probate Registry. To find that, visit our website www.TheProbateDepartment.co.uk
6. **Once you have the paperwork,** there is a lot of background work to be done before you can go into the Registry with all the paperwork and swear an oath.
7. **Arrange to open a Personal Representative's bank account.** This will be: used for the receipt of money due to the estate and any loan arranged to pay an Inheritance Tax and/or probate fees.

8. **Inform all relevant persons and organisations** - banks, building societies life assurance companies, employers, local authorities, Inland Revenue, benefit agencies etc.
9. **Arrange for a valuation of the Estate.** This will include the house and its contents other personal effects, investments in savings plans, equities, life policies, building societies etc. Draw up a detailed schedule of all the testator s assets.
10. **Draw up a full schedule** of debts that must be paid from the proceeds of the estate. These will include mortgages, income and capital gains taxes, bills, credit cards, loans and overdrafts.
11. **Complete the forms required** by the Inland Revenue Capital Taxes Office so that it can be established whether any Inheritance Tax is due. Do be very careful, as there are massive penalties if the Taxman finds out more tax should have been paid – and you pay the penalties personally!
12. **Complete the probate forms** and send or take them to the Probate Registry along with the original Will, the death certificate and the Inland Revenue account.
13. **Provided that the case is fairly straightforward**, an appointment will be made for the personal representative to 'swear the papers' within about 5 - 6 weeks of receipt at the Probate Registry.
14. **When Inheritance Tax is due** the Executor's account of the estate is passed to the Inland Revenue and the Grant of Probate cannot be issued until the tax is paid_ There will be circumstances where part of the estate has to be sold to pay Inheritance Tax and if this is the case banks can arrange loan facilities to pay the tax straight away.
15. **Copies of the Grant of Probate** should be sent to everyone who owes money to the estate. The Executors now have a legal authority and obligation to pursue any debts owing to the estate.
16. **When the Grant of Probate is received** the estate can be divided according to the terms of the Will. The executor must prepare and sign accounts showing who has received what from the distribution. They must be able to show that they acted in accordance with the terms of the Will in case anyone attempts to make a claim against the estate.
17. **All papers including the Grant of Probate and the accounts** must be stored safely for a period of 12 years.

DO I HAVE TO ACT IF APPOINTED as an Executor?

Up to four executors (if that many have been appointed) can act together. In most cases, one or two will actually do the work, as long as the others are happy with this. Once appointed, executors cannot be removed (which is why we never recommend appointing banks or solicitors who may refuse to be removed unless their full fee is paid – even if they have done no work!)

You can refuse to accept the appointment or (in most cases) delegate the work to us or a bank or solicitor and pay the fees from the estate. When writing Wills for clients, we always recommend appointing younger executors if at all possible, but things can change, which is why we have our *Peace of Mind Service*.