

Probate and Administration

What is Administration?

When a person dies, somebody has to deal with their Estate (the money, property and possessions left). This involves collecting in all the money and realising the assets, paying all the debts and distributing the remainder to those people entitled to it. Administration is the legal term for the process of dealing with someone's estate and where there is a Will this process is undertaken by the Executors that the Will appoints. However, although their authority is derived from the Will a Grant of Probate (the process whereby the Will is submitted to the Court) will often be required in order to deal with a person's assets. Where there is no Will Administrators are normally appointed under a Grant of Letters of Administration - similar to a Grant of Probate – and it is this Grant which provides the authority to administer the estate. Aside from this difference the process for both Grants of Probate and Administration is very much the same. For information about making a choice of Executors please see our Wills information sheet.

What sorts of things are covered during Administration?

- **The preparation of papers to enable the Executor / Administrator to obtain a Grant.**
 - The initial phase of Administration is to obtain accurate information to enable the Executor or Administrator to apply for the Grant. Depending on the estate this can take in the region of four to eight weeks although sometimes longer. Once the application for the Grant can be made the Grant itself is usually available from the Court after ten to fourteen days. Thereafter it is possible to deal with the remaining aspects of the administration such as obtaining the final tax clearances, discharging any liabilities and ultimately preparing the Estate accounts leading to final distribution of the assets. This may all sound very simple in principal, but there is a lot to consider and as your Solicitors Merryweather Williams can ensure that everything is dealt with correctly and professionally so that all goes smoothly. We have amongst our number members of the **Society of Trust and Estate Practitioners (STEP)** so expert advice is assured. Normally final distribution from an estate would be deferred until the expiry of a period of six months from the date of the Grant to ensure that no unforeseen claims are made under the Inheritance (Provision for Family and Dependents) Act.
- **Property**
 - On your behalf Merryweather Williams can deal with the valuation of any property and its transfer or sale as required
 - The valuation of the assets within the property and disposal if required
 - The transfer or cancellation (as applicable) of related expenses such as insurance, utility bills etc.
- **Finance**
 - Merryweather Williams can deal with all financial matters, including the transfer or liquidation of bank accounts and other financial investments such as PEPs, ISAs, Premium Bonds and Investment Stock.
 - Correspond with all pension providers and the Pension Service
 - Attend to all matters pertaining to Inheritance Tax and any Income and Capital Gains Tax issues
- **Other administrative duties**
 - As required Merryweather Williams can attend to the cancellation of memberships and subscriptions
 - Oversee return of the deceased's passport and driving licence
 - Undertake valuation of personal effects and house contents (if not covered above under **Property**)
 - Handle any other matters relating to the Administration.
 - Place any statutory advertisements relating to the death

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What other matters need to be considered during this period?

Wills

If you are a beneficiary of an estate that significantly increases your assets it is wise to consider amending your own Will to take account of both the increase in your estate and any unusual bequest that you receive such as a half share in a property. It is vital that your changed circumstances are reflected in the provisions of your own Will or that if you have not made a Will you do so. At Merryweather Williams we will be able to advise you on the best course of action to take to ensure clarity in the future. Please see our Wills information sheet for further details available in hard copy or from our website www.merryweatherwilliams.com.

Lasting Powers of Attorney (LPAs).

At the same time as preparing Wills we would normally recommend clients to consider putting in place a Lasting Power of Attorney (LPA). This is a device, which in essence authorises another individual or individuals to act on a person's behalf, but only on their instruction or their authority unless that person's faculties fail for any reason whereby it is not possible for them to provide those instructions. If an individual requires assistance, particularly in the circumstances of mental incapacity, the benefit of an LPA is that, provided the document is registered with the Office of the Public Guardian, it is possible for the appointed individuals to continue to look after someone's affairs. Further details are available from our Wills and LPA information sheets and please note that if you already have an Enduring Power of Attorney (EPA) then this remains entirely valid and it is not necessary to replace it with an LPA unless you wish to do so.

Financial Advice

Through our links with Independent Financial Advisors Merryweather Williams is well placed to ensure that beneficiaries receive sound financial advice on the possibilities for their inheritance. This is particularly important in an environment where non-independent providers of financial services are only too happy to proffer advice and receive your money!

How much will Administration cost?

In Administration matters generally it is difficult at the outset to estimate precisely what the costs will be as it is unclear how much time will be required to administer the estate and also what its value will be. As set out below both of these factors have a bearing on the level of costs. However, as soon as we can we will provide an accurate estimate of the costs, and likewise throughout the administration will advise how the level of costs is running and whether any unforeseen factors are likely to have a bearing on our charges. Also it is Merryweather Williams normal practice to render interim bills as the matter progresses and costs charged are then paid by deduction from monies held at this office in relation to the relevant Estate. VAT has to be added to all costs.

Merryweather Williams' charges are calculated by reference to the provision of the Solicitors Remuneration Order 1994 and in accordance with the Law Society guidelines in the 2003 Court of Appeal case of *Jemma Trust Co Ltd – v – Liptrott and others*. This means they are deemed to be fair and reasonable.

Our current overhead charge is £126.00 per hour. This is what it costs Merryweather Williams to produce the work before a profit element is added. In Probate and Administration cases we apply a lower mark up of 31% to the overhead charge, equating to a discounted hourly rate exclusive of VAT and disbursements of £165.00 (our normal rate is £187 per hour). In addition a value percentage is also applicable of 1.5% (1% where Merryweather Williams are not appointed as Executors) of the gross value of the Estate excluding the deceased's residence. Where the Estate includes the residence of the deceased, a further value percentage of 0.75% (0.5% where Merryweather Williams are not appointed as Executors) of the value of the residence is added. The percentage element reflects the value element of the responsibility involved in dealing with the Administration. Our charges are also subject to a minimum amount equating to the time spent on the matter charged at our normal hourly rate of £187 per hour plus VAT with no value element added. Charge rates are reviewed periodically and the overhead rate altered. Therefore, if a matter has not been completed when the next review takes place, the overhead charge may rise and consequently the costs overall will rise. You will be notified if a review takes place. There will also be certain additional expenses disbursements such as Court fees and charges for official copies of documents, which we have to obtain from the Court. Some of these disbursements are substantial.

Finally, if you have any queries about the basis upon which costs are to be charged, please feel free to contact us. At Merryweather Williams we like to make our fees as transparent and reasonable as possible without sacrificing the service.

This information is of a general nature only. It should not be relied upon in the absence of advice about a particular situation and no liability is accepted in the absence of our receiving formal instructions and providing formal advice.

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