

## 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. Once the Grant has been received, 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 principle, 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.
  
- **Property - 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 Insurance Policies, 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 - Merryweather Williams can deal with:**
  - The cancellation of memberships and subscriptions
  - The return of the deceased's passport and driving licence
  - The valuation of personal effects and house contents (if not covered above under **Property**)
  - Any other matters relating to the Administration
  - The placing of any statutory advertisements relating to the death

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### 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. Examples of factors that will affect the overall cost are:

- Whether or not we act as Executors of the Estate
- The amount of work undertaken by others (such as relatives clearing the deceased's property)
- Whether or not the deceased had a valid Will
- The total value of the Estate
- The number of properties owned by the deceased
- The number of bank accounts held by the deceased
- The nature, number and complexity of any investments held by the deceased
- The nature, number and complexity of any liabilities owed by the deceased
- The number and location of beneficiaries
- Whether Inheritance Tax is payable and whether a full tax return must be submitted
- Whether any claims are made against the Estate

Merryweather Williams' current overhead charge is £158.00 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 17% to the overhead charge, equating to a discounted hourly rate exclusive of VAT and disbursements of £185.00 (our normal rate is £207.00 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 £207.00 per hour 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.

It is Merryweather Williams' normal practice to render interim bills as the matter progresses and the costs charged are then paid by deduction from monies held at this office in relation to the relevant Estate. V.A.T. has to be added to all costs. Interim bills will relate to the overhead charge plus the 17% increment and part of the value percentage may also be added.

### What are the likely Disbursements?

Again, these will very much depend upon the individual circumstances of the deceased however please find below a list of typical disbursements that may be payable from the deceased's estate:

Probate fee	£155.00
Bankruptcy Searches (per beneficiary)	£2.00
Swearing fee (per Executor)	approx. £5.00
Post in London Gazette	approx. £68.00
Post in Local Newspaper	approx. £73.00
Landmark Asset Search	£145.80

#### Inheritance Tax:

The amount of tax payable is dependent on the value of the Estate and the personal circumstance of the deceased. We will advise you fully when the required information is available but for further guidance go to: <https://www.gov.uk/inheritance-tax>

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 provided.

## Merryweather Williams

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### How Long will the Administration take?

The timescales for administering the estate will be dependent on a number of factors and we will be able to provide you with further guidance as matters progress. The factors that could increase the timescales would include:

- Whether Inheritance Tax is payable and whether a full tax return must be submitted
- Whether any substantial adjustments need to be made to the Inheritance Tax account
- If there is any person who is likely to make a claim against the Estate
- The general complexity of an Estate

However for a fairly straightforward Estate, we would anticipate obtaining the Grant of Representation in approximately 6 to 8 weeks. Thereafter the distribution of assets and the completion of any other formalities would normally take somewhere in the region of a further 6 to 8 weeks depending upon the factors above. Please be aware that distribution is often delayed for 6 months in order to account for any claims under the Inheritance (Provision for Family and Dependents) Act 1975.

### Claims against the Estate

There are two main ways in which people may be able to make a claim against the deceased's Estate; firstly by claiming that the Will is invalid and secondly under the Inheritance (Provision for Family and Dependents) Act 1975.

Claims against the validity of a Will may arise where there are questions as to whether the deceased had the capacity to make the Will, where there is a suggestion of undue influence being exerted on the deceased or perhaps where the necessary formalities for making a Will have not been complied with.

Alternatively, under the Inheritance (Provision for Family and Dependents) Act 1975, certain categories of people such as spouses, former spouses and children of the deceased can make a claim against the Estate on the basis that the Will has not made adequate provision for them.

At Merryweather Williams, we will be able to provide you with full advice as to any potential claims and assist with any issues should they be forthcoming.

### 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](http://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!

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.