

What's involved...



Your guide to
being an Executor

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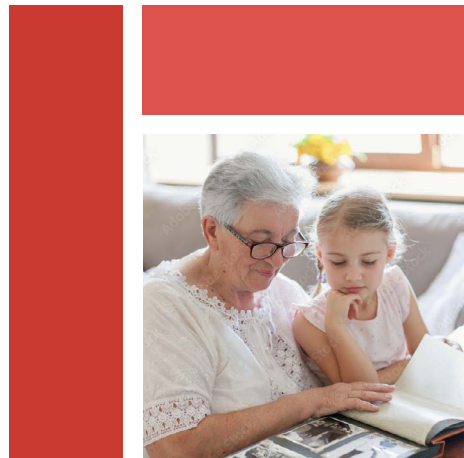
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Introduction

Dealing with the estate of a loved one can be a daunting task. Executors are under certain legal duties and obligations and there are strict timescales that must be met. **This guide sets out information to help you, as an Executor, and highlights where further advice would be beneficial.**

In most cases, Executors can choose to delegate many of these duties to a professional whilst still meeting their legal obligations. We would be happy to speak to you about this- see the section Using a Professional.



Roles and responsibilities

What is an Executor?

Executors are the people named in the Will who are responsible for dealing with the estate of the person who has died. If the Will contains ongoing trusts the Executor may also be a trustee of those trusts.

Executors receive their powers from the Will and are authorised to act on behalf of the person immediately following their death.

Once an Executor has accepted their role they cannot retire. They are also liable for any mistakes made with the administration of the estate. It is therefore vital that you consider your role and what it involves before undertaking any work in relation to the estate.

Roles and responsibilities

Summary of the Executors' responsibilities

- Registering the death
- Organising the funeral
- Obtaining details of all assets owned
- Calculating all debts/liabilities
- Calculating whether there is a requirement to do income tax and/or capital gains tax (CGT) returns up to the date of death
- Calculating and submitting tax returns for period up to completion of the administration



- Calculating and submitting inheritance tax (IHT) returns
- Arranging payment of all taxes
- Obtaining Grant of Probate
- Obtaining confirmation from HMRC that all taxes are paid and their file is closed
- Collecting and distributing the assets
- Paying bills

Roles and responsibilities

Grant of Probate

In most cases, the Executors will need to make an application for a Grant of Probate. The Grant of Probate provides the Executors with the legal authority that is required to collect the assets of the person who has passed away and to administer the estate. If Inheritance Tax is relevant to the estate, the Executor must also submit an IHT return to HMRC.

Assets and liabilities

The Executors must obtain details of all assets including, balances in bank and building society accounts as at the date of death and valuations of any stocks, shares, properties and personal effects owned by the person who has died. Cash balances must include any accrued interest to the date of death. Share valuations have to be carried out according to a strict set of rules and must include dividends declared before death but not yet paid.

Taxation

The Executor is responsible for the preparation and submission of income tax and CGT returns covering both the period up to the death **and** the period when the Executor is administering the estate, if required.

Depending on the size of the estate, the Executors must also submit an IHT return to HMRC and any Inheritance Tax due must be paid within six months after the end of the month in which death occurs otherwise additional interest and/or penalties may apply.

IHT must generally be paid before a Grant of Probate can be obtained, including IHT relating to pension assets from April 2027. In some circumstances, HMRC may allow the tax to be paid by instalments; however, interest will be charged on any outstanding balance.

Until the IHT liability has been settled in full, or an instalment arrangement has been agreed with HMRC, it may not be possible to proceed with the sale of estate assets, including any property owned by the estate. This can result in delays to the distribution of funds to beneficiaries.

There are a number of IHT allowances, reliefs and exemptions that can reduce the tax payable depending on the nature of the assets held within the estate. The reliefs may include Business Property Relief, Agricultural Property Relief, Spouse/Civil Partnership and Charitable exemptions in addition to the transferable nil rate band (NRB) and Residence nil rate bands (RNRB). These can be complicated areas and care should be taken to ensure that all available reliefs are utilised.

Roles and responsibilities

Collection in, and distribution of, assets

The Grant of Probate allows the Executors to collect in the assets in the estate and distribute them in line with the terms of the Will. The timescale to deal with the distribution of an estate depends on the size and nature of it and the beneficiaries named in the Will. However, typically it will take between 3 to 12 months.

Before the estate can be distributed the Executors may have to deal with the sale of assets such as stocks, shares, property etc. Alternatively, the Executors may choose to keep those assets and transfer them directly to the entitled beneficiaries. Where necessary, the Executors will need to retain funds to cover future instalments of IHT and future bills etc. It is essential to ensure that all debts and liabilities are paid before distributing the estate and this may involve the Executors ensuring that they are protected from liability by advertising for creditors in a manner set out by law. The Executors also need to ensure that all income tax liabilities have been settled and that there is no prospect of a claim arising from overpayment of State benefits during the person's lifetime.



More complicated estates and ways to save tax

Things that may increase complexity include foreign assets, business or agricultural assets, trust arrangements, and contentious issues. Where the Will creates ongoing trusts, the Executors may need to work with the trustees or, if also appointed as trustees, ensure they act in the best interests of both the estate and the trust beneficiaries.

There may be opportunities to reduce the IHT payable on an estate, for example by claiming available reliefs or varying the terms of the Will within two years of death. Where property or shares are sold for less than their probate value, it may also be possible, subject to certain conditions, to claim relief using the lower sale value instead of the date of death value.

What's involved

What we have provided so far is **an overview of the Executor's roles and responsibilities**. However, to help you identify the actual work that will need to be done we have put together a list of the type of tasks and considerations that are normally required to complete the administration of someone's estate.

The list is not exhaustive as the work of an Executor varies vastly depending on several factors, including the nature and size of the estate and the type and dynamics of the beneficiaries. It will, though, give you a good basis for evaluating what needs to be done.

Typical tasks involved in estate administration

- Understand the rules and regulations and identify what needs to be done
- Determine what information is required and what is obsolete
- Discuss whether all named Executors need to be involved
- Evaluate when it is necessary to pay for formal probate valuations and when it is not
- Clarify your insurer's requirements for empty properties and ensure suitable cover is in place
- Understand the likely risk associated with unknown creditors and beneficiaries and how to mitigate this
- Where issues/queries/risks arise resolve efficiently
- Handle demands for payments e.g. from utility companies
- Handle pressure from third party beneficiaries e.g. large charities
- Confirm that there are sufficient funds to pay all legacies in the Will or whether abatement is required
- Determine whether the person was a beneficiary of any trust or settlement

What's involved

Tax considerations

- Understand the requirement for IHT, CGT and income tax
- Investigate details and relevance of any gifts including trusts and lifetime IHT planning
- Ensure the correct forms are completed for HMRC. This will depend upon the nature and size of the estate e.g. value, nature of assets, foreign assets, gifts etc
- Meet deadlines imposed by HMRC
- Calculate the correct tax position
- Identify tax reliefs and allowances to minimise tax payable
- If appropriate discuss/challenge valuations with HMRC/District Valuer to minimise the tax payable
- Prepare full audit trail of activity and documentation for use with future queries or proof e.g. for transferable nil rate band applications
- Make arrangements for payment of IHT, particularly where this is a phased payment
- Investigate whether it is possible to make tax savings through a post death deed of variation
- Arrange funds to pay IHT bill. Note; this needs to be done before you can apply for the grant of probate

Grant of Probate

- Complete relevant IHT forms
- Apply to transfer the nil rate band (if appropriate)
- Complete relevant Probate forms
- Apply for the Grant

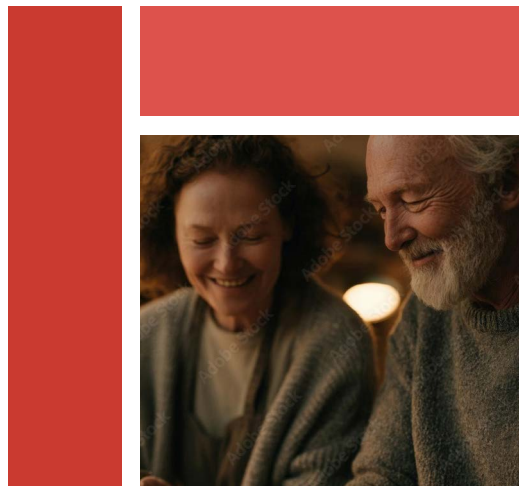
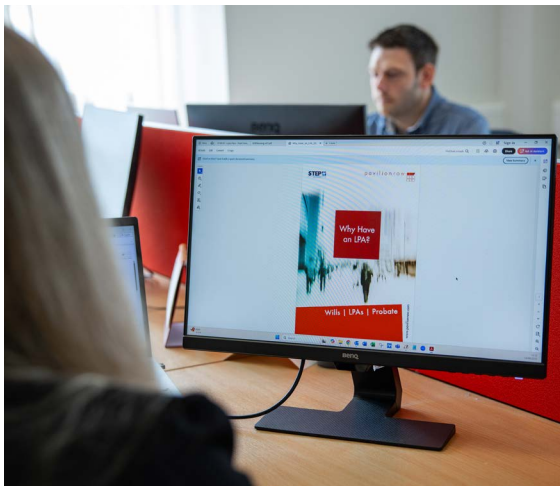


It's worth noting that the term probate is used widely for the process of administering somebody's estate. However, it specifically means 'the right to deal with the estate of someone who's died' i.e. the grant of probate. As you can see above this is just a small part of what is involved in the full administration of an estate.

What's involved

The Administration

- Collate all relevant information in relation to assets, ownership, values and liabilities
- Arrange Statutory advertisements if applicable
- Collect in all assets and pay all liabilities
- Claim any costs and expenses due to you in your capacity as Executor
- Complete of R185 (Estate Income)
- Compile estate accounts to include capital, income and all distributions
- Keep all beneficiaries (including third parties such as charities) informed



- Liaise with other agencies including HMRC, DWP, Pension providers, Insurance company/broker, Financial Adviser, Accountant, Stockbroker, Bank
- Produce estate accounts, detailing values at date of death, profit and losses on sales, expenses incurred, together with income during the administration period and all distributions including tax and other liabilities
- Distribute the assets of the estate in accordance with the terms of the Will/Intestacy

Deciding whether to do it yourself

Although obtaining probate and administering an estate can be done without professional assistance, the process is **often time-consuming** and may involve **legal and administrative complexities**. As a result, many Executors choose to seek professional support, whether for the whole administration or for specific aspects of the process.

Below are some questions for you to consider. If you are unsure of the answers to any it is probably worth at least having an initial conversation with a professional.

Key considerations

- Can you be sure that you have discovered **ALL** liabilities and assets relating to the estate?
- Do you have details of all owned property that forms part of the estate (even if it does not pass under the Will or intestacy)?
- Can you establish if any income tax or capital gains tax was due from the deceased at the date of their death?
- Is there a trust in the Will and if so, do you have the time/knowledge to administer it?
- Is anyone likely to contest the Will?
- Can you establish whether any tax reliefs are available and/or IHT can be saved?
- Can you identify whether there are any benefits in doing a deed of variation?
- Can you fully evaluate the time involved in gathering all information required and dealing with ongoing queries in relation to all assets, liabilities and stakeholders?
- Can you trace and verify the identity of all beneficiaries who are entitled to a share of the estate?

Deciding whether to do it yourself

Other things to consider when evaluating whether to involve a professional or not, include:

Executor risk

As an Executor you have a legal duty of care to all beneficiaries and can be held personally liable for any errors made. The types of things you are liable for include;

- Incorrect tax paid- you might have to pay penalties and interest
- Identification of all possible debtors, creditors and beneficiaries, including those who might not be easy to find
- Paying funds to the above people if you have already distributed the estate without identifying them
- The correct information being passed to the beneficiaries for their personal tax circumstances
- The appropriate insurance cover for, e.g. an empty property, is in place
- Obtaining appropriate tax reliefs

Time

Before embarking on the administration it is important to consider not only whether you have the time to do the work but also whether you can meet timescales that may be imposed on you.

- Are you able to respond in a timely manner to demands for payments?
- Are you able to meet the strict deadlines for paying tax?- If not penalties and interest may be incurred



Make sure you are honest with yourself when appraising your time and knowledge. It may end up costing more if you have to employ a professional at a later date.

Deciding whether to do it yourself

Emotional burden

For some Executors, the decision is less about time or expertise and more about the emotional impact of dealing with the estate. This may arise from family dynamics or simply because managing the administration can serve as a continual reminder of the loss of a loved one.

See what some of our clients say...



Thank you for all your help with this complex situation, I really just wanted to ignore it!



We would like to take this opportunity to thank you for all your help and assistance in making things as easy and straight forward for us in what could have been quite painful and emotional process had we attempted to do this ourselves.



Thank you for your excellent service. It would of been too much for me to cope with at this time, so to palm everything on to you has been a great relief.

Using a professional

Professional support can help ease the administrative burden and provide access to specialist knowledge and experience.

Professionals who specialise in this area of law are often members of the 'Society of Trust and Estate Practitioners' (STEP) in addition to their other professional qualifications.

The benefits of using a professional may include:

- Work completed quicker and more efficiently
- Beneficiaries to receive their inheritance sooner
- Possible tax savings through understanding of available tax reliefs and how to ensure that you benefit from them
- Potential cost saving e.g. only paying for formal valuations if necessary
- Reduction in errors that could be costly to correct
- HMRC asset valuation disputes to be dealt with effectively
- Management of payment demands, before money is available
- Access to other specialists in areas such as; contentious issues, conveyancing and probate valuations

How much will it cost?

The fees will vary considerably depending on the nature and complexity of the estate. All regulated law firms are required to publish their probate fee information on their website.

Some firms charge on an hourly rate basis and/or as a percentage of the estate. Our fees, however, are fixed fees based on the work involved. We will provide a clear quotation before any commitment is made, ensuring transparency and fairness throughout.

You can find details of our probate fees on our [website](#).

Using a professional

It is possible that you may find, that **by using a professional**, you are ultimately able to **save money** as well as time.

- If you are getting more than one quote ensure you are comparing like with like, including whether the quotes are with or without VAT
- Some companies may just quote you for obtaining the grant of probate. Is this what you want? As highlighted already this is only a small portion of what is involved
- Check for any caveats e.g. only includes dealing with X amount of assets
- Check what happens to the interest accumulated on estate funds held on your behalf



Using Pavilion Row

If you choose Pavilion Row you can expect the following from us:

- A fair fixed fee based solely on the work that needs to be done
- A named qualified probate practitioner who will be your main point of contact throughout the matter. No call centres or sales consultants
- Interest accumulated on estate funds held in our client account **ALWAYS** paid to the estate. No hidden opt out clauses that allows the firm to take the interest instead
- Distributions paid out to beneficiaries as quickly as possible, to ensure we are not holding client money needlessly
- 10% discount applied to our fees if the deceased did their last Will through us

What's next?

If you wish to use a professional, please [contact us](#) and we will be able to provide a quote for doing the work.

Alternatively, if you are unsure whether to do the work yourself, request a copy of our Probate Questionnaire. Use this as an aid for collecting the information you will require for administering the estate. From this you will then be able to evaluate whether it will be helpful to use a professional.

Should you then decide that you may want some help send the form to us. Based on the information given we will provide you with a no obligation quote. By receiving a quote, you will be able to make an informed decision on what is best for you, as the Executor, and the beneficiaries.



Note: If you are thinking about using a professional it's advisable **NOT** to start any work at this stage, beyond completing our Probate Questionnaire, as this may lead to duplication of effort and possible extra costs.

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