

Our Service and Experience in Dealing with Probate and Trusts

Probate and Trusts is an area of experience of Martin Tolhurst. We have one of the largest Wills, Probate and Trust teams in Kent. We have 5 specialist fee earners, supported by 8 paralegals, trainee solicitors and support staff dealing with Probate and Trusts who would be happy to act on your behalf. For individual fee earner's biographies, please see the individual links below.

Quality and Rated by Our Clients

All members of our Wills, Probate and Trust Team are specialists who are experienced in dealing with both simple and complex estates. In 2017/18 over 250 clients completed surveys/reviews for the service that they had received from us on Probate and Trusts transactions. 96% of our clients in those surveys confirmed that they would use us again or recommend us to their family/friends.

Who will deal with your matter in a Probate case

Your case will be dealt with by a named contact at the firm, and this will be one of the Probate and Trusts specialist fee earners employed by Martin Tolhurst. These fee earners names appear below- by clicking on their biography, you can see their experience and information about them. They will deal with your transaction from the time the file is opened, until the estate is finalised and distributions to beneficiaries have been completed.

Typical Timescales for a Probate case.

As a guide (but your individual case may take more or less than this time):

- Our application for the grant to the Probate Registry will take approximately 6-8 weeks from receipt of full instructions on assets/liabilities.
- The grant from the Probate Registry will take around 3-4 weeks from receipt of the application. This can increase in the event of requisitions being necessary.
- Upon receipt of the Grant of Probate we would anticipate encashing estate assets (except for any residential or commercial property), settling liabilities and producing draft estate accounts within a 6-8 week period. Once the executor has approved estate accounts the distributions can be made to beneficiaries' subject to any notices.

Overall we would therefore anticipate a contested estate to take around 15-20 weeks to finalise from your instructions. This is an average for guidance purposes only and the estate you are involved with could take a longer or shorter period than this based on the factors listed below.

Every Probate estate will differ according to the following factors:

- The number of assets and liabilities of the estate, and most especially property, overseas assets/liabilities and any shares;
- The time taken by the asset holders in dealing with requests for information and providing account closure forms.
- Co-operation and prompt return of paperwork by executors and beneficiaries
- The time taken by those to whom the estate owes a liability in dealing with requests for information on the liability and providing discharge information.

- The time taken by the Probate registry in dealing with the application for Grant of Probate and any requisitions raised by the Probate Registry.
- The time taken by HMRC in dealing with any application/calculation of Inheritance and any requisitions raised by the Probate Registry

Key Stages for a Probate case

To see the key stages in an estate/probate are as set out on the attached information sheet, please [click here](#).

Our Price Estimate

We have two different methods of charging executors for dealing with an estate for an uncontested probate. It is for you to choose your pricing preference. On each estate we can provide an estimate as to our likely charges to the executor using both methods:

Method 1 - we charge our fees based on a percentage of the estate value- this is usually 2% of the total value of the estate. This is the most popular method chosen by our clients. The charges are fixed and are known with certainty and proportionate to the overall value of the estate.

Method 2 - we charge our fees based on the time spent by our fee earner on the estate (usually 210-250 per hour).

In addition to our charges an estate will also incur payments to others – usually third parties and these can be as follows:

- Probate Court fees including a Fee for each additional copy of the grant
- Commissioners fees for each executor to swear the oath;
- Legal advert fee to advertise the estate for any claims
- Bankruptcy search fees to include the deceased, the executors and each beneficiary;
- If the deceased held a property in England and Wales Land Registry Fees to order copy of the legal title
- Bank or financial institution administration charges.

This is an indication of the disbursements thought likely to be incurred on a typical estate but please note this is not an exhaustive list of the disbursements.

Examples of typical estates and prices charged are shown below in the examples section to give an idea as to our fees and the likely overall charges including all disbursements. Once we have the necessary information on the estate from you we can provide you with an individual written fixed price estimate under Method 1 and a likely estimate under Method 2.

What is Included in Our Fees Estimate for the Probate Case

1. Meeting with the executor's to discuss the deceased's estate and the estate administration;
2. Writing to all financial institutions where the deceased held assets and liabilities and where instructed to do so arrange a valuation for land owned by the deceased;
3. Place statutory notices (if instructed to do so);

4. Notify all of the beneficiaries of the will on behalf of the executor that they are due to inherit from the estate once a grant of probate has been issued, obtain the beneficiaries identification, bank details and check their bankruptcy status (where appropriate);
5. Once all assets and liabilities in the estate have been identified, prepare the inheritance tax return (IHT205) HM Revenue and Customs (HMRC) require giving details of the estate's assets and liabilities, estate accounts (recording precise details about the composition of the estate)
6. Prepare the legal statements for the personal representation and provide executors with guidance and instructions for checking the same;
7. Preparing all account closure and withdrawal forms ready for the executors to sign and send draft application for probate to executors for approval;
8. Meet with the executors either in person or via a conference call to go through the IHT205, estate accounts and legal statement;
9. Once IHT205 and legal statement for executors has been signed and returned to us we submit them to the Probate Registry with the court fee to apply for the Grant of Probate to the estate of the deceased (the Grant);
10. Dealing with the Probate Registry and HMRC in respect of any queries, requisitions, further requests for information and calculations
11. When the Grant has been issued, send the Grant to the executor and all financial institutions identified in the estate accounts and the IHT205, collect in the assets and pay any liabilities from the money collected in;
12. Update the complete the final draft estate accounts with details about the estate and assets collected in and send them to the executors for approval.
13. Upon receiving approval to the estate accounts dealing with distributing the estate in accordance with the will including distributions to beneficiaries, obtaining receipts, finalising matters for the executors

Factors that could increase our overall costs estimate

- Beneficiaries or executor of the estate are insolvent or cannot be quickly and easily located;
- There is an impediments or technical issue in respect of the will that will prevent the probate registry from issuing a grant of probate quickly or at all;
- There will be are difficulties or protracted correspondence with HMRC about the IHT205 submitted to them;
- The deceased's tax affairs were not up to date to the date of death;
- It is necessary for this firm to visit the deceased's property;
- There are claims against the estate by relatives, beneficiaries, creditors, HMRC, DWP, or other third parties; or
- There are material disagreements between the executors, trustees and beneficiaries.

- The title to any residential property is unregistered or leasehold or registered on more than one title at the Land Registry

What Work is not included in Our Probate Fee Estimate?

Conveyancing work. If the deceased owns a residential property that will need to be sold any fees and charges relating to the sale of the Property are not included in our Probate fee estimate. A separate fee will chargeable for the work on the sale of the property (conveyancing) and a separate fixed fee estimate can be provided for this.

Deeds of variation. If a Deed of Variation is required by the executors for tax or variation of beneficiary purposes, then a separate charge will apply.

Inheritance tax planning. If separate inheritance tax planning is required including any Deed of Variation, a separate charge will apply.

Trusts. If separate advice or work is required in respect of the setting up, administration or advice upon trusts a separate charge will apply.

Claims and contentious probate. If a claim is made of the estate or the estate becomes a contested estate, then additional charges will apply and advice from our litigation department will be necessary.

Our People

The biographies of the individual specialist Probate and Trust fee earners are shown – please click upon the name of the person allocated to your matter, or who you believe will be allocated to your matter to see their biography, including their expertise and experience.

Regulated, Accredited and Insured for Peace of Mind.

As solicitors, we are regulated by the Solicitors Regulation Authority, and observe the SRA Code of Conduct 2011. We have accreditations from the Law Society- we were awarded their Conveyancing Quality Standard in 2012 and have had annual reassessments since that date. We were awarded the quality management standard, Lexcel, in 2010 and have been reassessed annually since that date to retain the mark that only 1000 firms in the England Wales have been awarded. We are insured with an industry-leading insurer, Inter Hannover, who comprehensively insure us for claims up to £10 million. We operate an established complaints procedure.

Typical Examples

At the end of this document are 2 typical examples of legal fees and estimated totals on 2 typical transactions we would deal in probate cases.

Our Terms of Business and Terms and Conditions

All of the above information is designed to give you a fair and reasonable assessment of the likely costs. An individual quotation will be given to you at the outset of your case and this may be adjusted according to the circumstances of the estate. All of the above information is given by way of guidance and is not binding in terms of the individual case or quotation. If you have any queries about the price or service that may be provided on your transaction, please do not hesitate to contact the following Probate partners:

Paul Rothwell plothwell@martintolhurst.co.uk 01474 325531
Simon Franklin sfranklin@martintolhurst.co.uk 01474 325531

For a copy of our Terms of Business or privacy policy please do not hesitate to contact us. If you require an individual price estimate for your residential conveyancing transaction, please contact us further so that we may provide this to you on an individual basis. All of the above prices are subject to the rate of VAT that is charged, which is currently 20%. All of the above prices and VAT are subject to change at short notice.

2 typical transactions showing full legal costs and disbursements on typical probate transactions.

Estate 1- using Method 1 -fixed price estate costs 2% of the estate

George died on the 30th November. His wife Jean had died 2 years previously. George was the sole owner of the property he lived in and he had a bank account and savings in Nat West and Nationwide. He had 2 small shareholdings for companies he previously worked for- BP and Shell. He left a will appointing his 2 surviving children Stewart and Michelle as both the executors and the joint beneficiaries of his estate.

The estate has the following assets: -

1. Freehold property -	£240,000
2. Savings (held across two banks in various accounts) -	£35,000
3. Two shareholdings -	£2,500
4. One Pension/Life Policy -	£1,300

The estate has the following liabilities: -

1. Funeral account -	£3,600
2. Wake -	£400
3. Credit Card bill -	£170
4. Utilities	£180

Gross Estate - £278,800
Liabilities - £4,350
Net Estate - £274,450

Martin Tolhurst Legal fee

Fixed at 2% of the net estate	£4,802.00
VAT at 20% of the legal fee	£960.40
<u>Sub total of legal fees including VAT</u>	<u>£5762.40</u>

Payments to third parties

Probate Court fee including additional copies	£158.00;
Commissioners fee with 2 executors	£14.00

Newspaper Legal advert fee (if required) £200.00
Bankruptcy search fees, to include the deceased, the executors

and each beneficiary;	£14.00
HM Land Registry Fees to order copy of the legal title	£6.00
VAT at 20% on applicable payments to third parties	£40.00
<u>Sub-total of payments to third parties including VAT</u>	<u>£432.00</u>

Total Estate costs including all Legal Fees and payments to third parties
£6194.00

Note 1- no additional work such as claims, deeds of variation or protracted HMRC dealings were necessary

Note 2 – the fees for the property sale were billed separately – see our conveyancing calculator for full details

Estate 2 using Method 2 – work carried out on the estate on a time spent basis

Sally died on the 12th September. She did not leave a will. She died a spinster and did not have children. Pursuant to the rules of intestacy, the estate is divided equally between Sally’s three siblings.

Sally owned a house, had a number of bank accounts with Santander, Barclays and Lloyds, premium bonds and a savings bond. In addition to this she had two life policies which paid out to her estate.

Her three siblings apply for a grant of letter of administration to her estate and they administer the estate together.

The estate has the following assets: -

1. Freehold property	£280,000
2. Savings (held across three banks in various accounts)	£10,000
3. Premium Bonds	£400
4. Savings bond	£2,600
5. Two life policies (with two different companies)	£4,100
6. Council tax credit	£243

The estate has the following liabilities: -

1. Funeral account	£3,800
2. Wake	£500
4. Utilities	£180

Gross Estate - £297,343
Liabilities - £4,480
Net Estate - £292,863

Martin Tolhurst Legal fee	
Estimate of cost	£5,500
VAT at 20% of estimated fee	£1,100
<u>Sub total of legal fees including VAT</u>	<u>£6,600</u>

Payments to third parties	
Probate Court fee including additional copies	£158.00;

Commissioners fee with 2 executors	
£14.00	
Newspaper Legal advert fee (if required)	£200.00
Bankruptcy search fees, to include the deceased, the executors and each beneficiary;	
£14.00	
HM Land Registry Fees to order copy of the legal title	£6.00
VAT at 20% on applicable payments to third parties	
£40.00	
<u>Sub-total of payments to third parties including VAT</u>	
<u>£432.00</u>	

Total Estate costs including all Legal Fees and payments to third parties £7,032

Note 1- no additional work such as claims, deeds of variation or protracted HMRC dealings were necessary

Note 2 – the fees for the property sale were billed separately – see our conveyancing calculator for full details