

Terms of Business – Estate Administration

1 People who will deal with your matter at Gumersalls

Our Estate Administration and Probate Department consists of Mrs Deborah Isles who is the Partner in charge of the Department, and Miss Zoë Mayhew. Mrs Isles qualified as a solicitor in 1990 and has always specialised in the administration of estates, trusts and the management of elderly clients' affairs. She is also a member of the Law Society Private Client Section and the Society of Trust & Estate Practitioners (STEP). Miss Mayhew joined our team as a legal secretary in 2008 having had a varied work history involving customer service, administrative work, accounting and experience with elderly clients. She assists the fee earners in the private client department with the administration of estates, trusts and the management of elderly clients' affairs and has a particular interest in the administration of estates.

We work as a team and so even when one team member is away from the office you should always have one of us to speak to about your matter. We aim to return all telephone calls and reply to emails within 24 hours and try to provide a personal service tailored to what you feel you can deal with yourself and what you would like us to take care of for you.

Our office is open from 9 a.m. to 5 p.m.

2 Charges and expenses

Our charges not only cover providing you with a dedicated and experienced team led by a probate solicitor to work on your matter and ancillary staff such as receptionists and cashiers but also covers the cost of running a high street office; computers and books, professional indemnity insurance and keeping our legal knowledge up to date. We base our charges on two factors:-

- a) the time spent dealing with your matter
and
- b) a percentage of the gross estate to reflect the responsibility involved.

Percentage Charge

We charge 0.5% of the gross value of the residence and 1% of the gross value of the remainder of the estate. We charge only 0.25% of the gross value of assets and cash passing to a surviving spouse.

Where a partner in this firm is named as an executor in the Will, we charge 0.75% of the gross value of the residence and the gross value of the remainder of the estate as follows:

Up to £1 million – 1.5%

£1 million to £4 million – 0.5%

Time Charge

We charge for all the time we spend on your matter including meetings with you and others, any time spent travelling, considering, preparing and working on papers; correspondence, (including emails and text messages) making and receiving telephone calls and preparation of the estate accounts.

We charge you £320 per hour plus VAT for each hour of work done by Mrs Isles, and for non-secretarial work carried out by Miss Mayhew, we charge £175 plus VAT for each hour of work done. These charging rates are reviewed annually on 31 December and we will notify you in writing of any increased rate.

Routine letters and routine telephone calls made and received (including emails) will be charged as units of 6 minutes. Our charges for considering routine letters received will be in units of 3 minutes, and other letters and telephone calls will be charged for on a time basis. We will add VAT to our charge at the rate that applies when the work is done. At present, VAT is 20%.

Normally we would not expect our total charges excluding VAT to exceed 2.5% of the value of the gross estate where there are one or two main beneficiaries sharing the estate after payment of a few legacies and debts.

We will identify the legally appointed executors or personal representatives and the type of probate application you need. Usually the first step in the work required to administer an estate is gathering the assets and liability information and using this to complete the Inheritance Tax forms. We then prepare the grant application for the executor to approve and sign all the documents before lodging them with the court. Once the grant is obtained, we deal with transferring or cashing in the estate assets as instructed by the executor, paying debts and settling legacies, preparing estate accounts showing how the estate was distributed after payment of the legacies, debts and administration period liabilities. We also advise you of the risks of acting as executor where you are not the sole beneficiary of the estate and what steps we can take to reduce the risks.

Once the administration is complete, we send you the estate accounts for approval and are happy to deal with any queries you may have. Although checking the final Income Tax calculation supplied by HM Revenue & Customs is included in the usual fee, if the tax office require completion of tax returns our charges would be increased to cover the cost of completing these or we would recommend an accountant to carry out this work.

Our charges will also be increased if there are many legacies listed in the will or several beneficiaries sharing the estate as the number of people we need to write to for information and keep informed are increased. If Inheritance Tax is payable then our charges would also be higher to reflect the extra work completing the more detailed tax account form, checking tax calculations received and arranging payment of the tax due. We also charge separately for preparing deeds of variation, selling estate property or if there are any disputes about the administration of the estate.

For example:

An estate of £500,000 going entirely to a widow or widower and therefore not liable to Inheritance Tax and where the property is to be transferred would expect to incur a fee of £2,500 to £3,000 plus VAT.

An estate of £650,000 not subject to Inheritance Tax due to allowances claimed but comprising 14 assets (including a house) where the will leaves 8 legacies, but the rest of the estate is shared by only two residuary beneficiaries who are also executors would expect to incur a fee of £9,000 to £10,000 plus VAT for just the estate administration service and not including the fees for selling the property.

An estate of £825,000 subject to Inheritance Tax where the will leaves 5 bequests, but the rest of the estate is shared between 10 beneficiaries (including charities and children) where Gumersalls are named as executors, comprising 21 assets (including online assets and a house to be cleared and sold) would expect to incur a fee of £20,000 to £22,000 plus VAT for just the estate administration service and not including the fees for selling the property.

Please note that from 1 June 2023 we will no longer be offering our ‘Grant only service’ previously advertised.

If for any reason this firm ceases to be involved in your matter before its completion, we will charge you for the work we have done and the percentage we charge will depend on the responsibility involved. Our bill will also include VAT and expenses (known as disbursements).

Bills

We will send you a bill for our charges and expenses after the Grant of Probate has been obtained and every month thereafter during the administration of the estate. We will also send you a final bill for our charges and expenses when the administration of the estate is completed. If we hold sufficient funds on your behalf and we have sent you a bill, we will usually deduct our charges from these funds. Where we deliver an interim bill, practice rules state that monies should be transferred from the account on which we hold funds on your behalf (client account) to our office account within 14 days. We will always send you the bill for your approval, but if we do not hear from you within 7 days of sending the bill, monies will be transferred from our client account to our office account in settlement of our costs.

Payment is due to us within 28 days of sending you our final bill. If you do not pay the bill within this time, we reserve the right to charge interest on the outstanding amount from the date on which payment of our bill became due. **If you wish to query a bill, please contact us immediately.**

Please note we cannot accept payment in cash in any circumstances over and above £500 and any payment below that in cash must be for a specific purpose.

Payments we make on your behalf to third parties (“disbursements”)

You will be informed in advance if the following charges are applicable to your matter, and if so their exact amounts will be confirmed to you in writing, together with our preferred method of payment.

<i>Disbursement</i>	<i>When payment is likely to be needed</i>	<i>Cost</i>
Probate Court fees	On application for Grant of Probate	£300 plus £1.50 per official copy
Renunciation Settlement fee		£10
Birth, marriage or death certificates		£14-38
Trustee Act Notices	London Gazette	£110
	Local paper	£100-150 approximately

Taxes

Income and Capital Gains Tax

Any tax owed by the deceased at the date of death is a debt of the estate and paid from the estate money collected in during the administration. The estate will also be subject to Income and Capital Gains Tax during the administration period (the period of time from the day after the date of death to the day the estate administration is finished). It is not possible to say how much the tax will be as it is based on the income and profits from sale of estate assets during the administration period.

Inheritance Tax

Inheritance Tax (IHT) is payable on the net value of the estate above £325,000. There are exemptions available where some or all of the estate is left to charity or a spouse and further allowances where a residence is left to the deceased's children. We will calculate these and advise you of the tax payable when we prepare the Inheritance Tax Account as part of the grant application process. In some circumstances IHT can be paid over 10 years by annual instalment but there is interest payable on the outstanding tax. Further information is available from: <https://www.gov.uk/inheritance-tax>.

3 The length of time your matter will take

It is difficult to estimate how long this matter will take to bring to a conclusion. As a rough guide we would expect the administration of small estates to be concluded within a year. Medium estates may take from one to two years to administer and large or complex estates might take up to five years. Normally the grant of probate or letters of administration is obtained within 3 to 6 months of the death. Legacies and first payments to residuary beneficiaries can usually be paid within 6 to 9 months of the death.

In recent years there have been severe delays at the tax offices and in our experience, this can increase the length of time it takes to get a grant and tax clearance by two or three months. In addition severe delays are currently being experienced at the probate court due to the introduction of a new centralised system for applications.

4. Storage of papers and deeds

We are entitled to keep all your papers and documents while there is money owing to us. We will keep our file of papers (except for any of your papers which you ask to be returned to you) for no longer than is necessary. This will usually be for no less than 5 years and no more than 10 years, in accordance with our policies and the regulations we have to adhere to. We will not destroy documents you ask us to deposit in safe custody. In the case of Will files, these are held by us for the lifetime of the testator and beyond as they are required for the administration of the estate.

5 Termination of your instructions to this firm

You may terminate your instructions to us in writing at any time. For example, you may decide you cannot give us clear or proper instructions on how to proceed, or you may lose confidence in our work. We are entitled to keep all your papers and documents while money is owing to us. We will decide to stop acting for you only with good reason and on giving you reasonable notice. If you or we decide that we will stop acting for you, you will pay our charges on an hourly basis and expenses as set out in our accompanying letter.

6. Raising queries or concerns with us

If you are pleased with our services, please tell us and your friends and colleagues. If at any point you become unhappy with the service we provide to you, please inform us immediately so that we can do our best to resolve the problem for you. We have a documented complaints procedure and a copy can be provided to you on request. This may include complaints about the fees charged and your bill.

If we are unable to resolve your complaint, then you can have the complaint independently looked at by the Legal Ombudsman. The Legal Ombudsman investigates complaints about service issues with lawyers.

The Legal Ombudsman expects complaints to be made to them within one year of the date of the act or omission about which you are concerned or within one year of you realising there was

a concern. You must also refer your concerns to the Legal Ombudsman within six months of our final response to you.

Please be aware that you may also have a right to object to your bill and may also apply to the court for an assessment of the bill under Part III of The Solicitors Act 1974. If all or part of the bill remains unpaid, this firm may be entitled to charge interest on that amount.

7 Money held by this firm in a client account

This firm banks with Lloyds Bank Plc and you should note the following points in respect of the Financial Services Compensation Scheme:-

- a) This firm will not be liable for losses resulting from a banking failure.
- b) The £85,000 indemnity limit applies to each individual client. So, if the deceased held other money in the same bank then the limit will remain £85,000 in total (i.e. the estate money will be aggregated with the money we hold for the estate in the same bank). Remember that some deposit-taking institutions have several brands but the £85,000 limit applies per institution (not to each brand). You should check with your bank, or with the FSA, for more information.

8 Client Interest Policy

This is our approach to any interest arising from monies held in our client accounts on behalf of clients or other relevant people.

Monies are normally held in a General Client account – from which funds are instantly accessible. This means the amount of interest obtained is minimal and it is our policy not to account to our clients for any sums earned. We instead prefer to make distributions to beneficiaries as soon as there are sufficient funds to do so, so that beneficiaries can make their own investment arrangements at the best available rates.

9 Cybercrime Alert

Please be aware that there is a significant risk posed by cyber fraud, specifically affecting email accounts and bank details. Please note that our bank details will not change during the course of a transaction and we will not change our bank details via email. Please be careful to check account details with us in person if in any doubt. We will not accept responsibility if you transfer money into an incorrect account.

There may be a need or preference to use a form of audio-video conferencing (such as Microsoft Teams, Zoom, Skype etc.) during your matter. There can be security risks associated with using such platforms and you accept and assume responsibility for any such risks if you use them.

It is your responsibility to ensure that your own cyber security measures are effective and up to date.

10 Confidentiality

Please note that while everything you may tell us will be kept confidential, we are obliged to, and will comply with the law including the Proceeds of Crime Act, which may require us to divulge even confidential information in certain circumstances, without reference to you. We will also carry out checks in order to comply with the Money Laundering Regulations.

11. Anti-Money Laundering & Data Protection

We are obliged to obtain satisfactory evidence of the identity of our clients and often others involved in the transactions or cases we are dealing with. These checks are a mandatory element of the government's controls over money laundering and terrorist financing and we are required to conduct them by law. Our usual practice will be to ask to see your original passport

or photo driving licence and a recent utility bill or bank statement. In addition to these visual checks, the data provided will be used to conduct an electronic search to verify your identity using out third-party provider, Smartsearch. This search is only for the purposes of complying with all required regulations and will have no impact of your credit score.

Please note that any such searches and copy documents will be securely maintained on the file for your matter in pursuance of our data protection policy (available on request). The uses that will be made of the data will be to provide confirmation of the identity of the person(s) providing it only. The law requires us to maintain such data for the period of five years from the end of the matter we are handling for you or from the date at which you cease to be a client of this firm. In all other respects the data and papers collected for these purposes will be retained in accordance with our file storage procedures (see section 4).

12. Insurance

We are not authorised by the Financial Conduct Authority. However, we are included on the register maintained by the Financial Conduct Authority so that we can carry on insurance distribution activity, which is broadly the advising on, selling and administration of insurance contracts. This part of our business, including arrangements for complaints or redress if something goes wrong, is regulated by the Solicitors Regulation Authority. The register can be accessed via the Financial Conduct Authority website at www.fca.org.uk/firms-services-register.

Gumersalls have in place professional indemnity insurance. If you require any further information about this, please contact us.