

Appointing a professional executor



There are various important considerations to take into account when appointing a professional executor, which we explore in this guide, as well as the likely costs involved.

At a glance

- You can appoint one or more individuals and/or a professional executor to be executors of your will.
- Professional executors are popular because they are independent and objective.
- You can appoint an individual member of Mills & Reeve as an executor, or the Mills & Reeve Trust Corporation.
- Appointing the trust corporation, rather than an individual at the firm, provides continuity.
- We charge a fixed fee or by the hour, whereas most firms charge a percentage of the estate.

When making a will, a person is entitled to appoint anyone to be the executor of their will. In turn, the executor is free to engage the services of a professional to help them with the often onerous administration of the estate.

Alternatively, a professional executor (an individual or Mills & Reeve's Trust Corporation) may be appointed either to act alone or to work alongside family members of friends.

Clients often choose to appoint a professional executor for the following reasons:

- To ensure that independent and objective decisions are made in relation to the estate.
- To provide a degree of personal distance from family members who may find it difficult to make decisions where there is a conflict of interest or emotional complications.
- To tie the family and the administration of their estate to their trusted professional advisors.

Mills & Reeve can act as a professional executor. This can be arranged either by appointing an individual member of the firm as an executor, or by appointing the Mills & Reeve Trust Corporation.

Appointing the trust corporation, rather than an individual at the firm, provides continuity and ensures that there will always be a professional executor available to act on behalf of your estate. The sole purpose of the trust corporation is to act as a corporate executor and trustee, and at any one time around 20 partners of the firm are directors of it. The trust corporation does not undertake any trading or business activities and therefore does not pose any financial risk to the estate.

We also draw your attention to a clause included in the Administrative Provisions (headed "Protection of the Trustees generally"). This clause provides that no executor of your will/trustee of the trusts will be personally liable for any loss to the Trust Fund unless they have acted fraudulently or dishonestly, or in the case of a professional executor/trustee, negligently.

Our fees

Our charges are calculated on the same basis, regardless of whether an individual or the trust corporation is appointed as an executor.

Unlike some firms, we do not charge a percentage of the estate for dealing with the administration. Instead, we charge a fixed fee or by time spent at an agreed hourly rate. Our current hourly rates for the employees who will typically be involved in this work are:

Probate manager/paralegal/legal executive	£185 - £300
Associate/senior associate/principal associate	£185 - £310
Partner	£345 - £550

We review our rates each year and notify clients of any changes. All work is supervised at a partner level, but most of the administration is dealt with by an experienced probate manager or legal executive to keep the costs down. The majority of the work involved in administering an estate is usually concluded well within 12 months of instruction.

There are various factors that can affect the overall costs, including whether inheritance tax is payable and the extent, nature and number of assets in the estate. Therefore, it is difficult to provide an accurate estimate of costs without detailed information. However, our experience shows that they usually fall within the ranges listed below:

Value of estate	Likely fees based on time spent (as per cent of estate)
£500,000	1 - 2 per cent
£1m	0.75 – 2 per cent
£2m	0.75 – 1.5 per cent
£5m	0.5 – 1 per cent
£10m+	0.25 – 0.75 per cent

Where there are problems that cause a matter to be protracted, this can add to the costs involved. Also, the above estimates do not take account of extraordinary matters, such as:

- Disputes and litigation
- Overseas issues
- Complex tax issues
- Variations and other alterations to the terms and trusts established by the will

Wherever possible, we provide a best estimate of the likely costs as soon as details are available, and revised estimates as and when circumstances change. Discrete pieces of work are quoted for separately. These may include:

- Conveyancing charges in connection with the sale of property
- Consideration of tax planning issues for beneficiaries of the estate

- Litigation affecting the administration of the estate

Billing

Whenever we are instructed to deal with the administration of an estate, detailed terms of engagement are sent out for approval to co-executors and, in some cases, to residuary beneficiaries of the estate.

We usually bill on a monthly basis. We are aware that until the grant of probate has been issued, it may not be possible for the bills to be paid immediately and we accept that they may be left outstanding for several weeks.

If costs are low in a particular month, they will usually not be billed until the following month. Issuing bills at monthly intervals enables the executors and/or beneficiaries to monitor expenditure as the administration progresses. Detailed reports of the time involved will be provided.

Meet our experts

Our experienced team operates nationwide. For further advice, please get in touch with your local contact.

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