

Appointing Mills & Reeve Trust Corporation as 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 Mills & Reeve Trust Corporation as an executor (or alternatively an individual member of Mills & Reeve).
- Appointing the trust corporation, rather than an individual at the firm, provides continuity.
- We will charge by either a fixed fee or by the hour, whereas most firms charge a percentage of the estate. There may be an additional cost if funds are not available to pay our legal fees on a monthly basis from instruction.

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.

You might also choose to appoint a professional executor (such as Mills & Reeve Trust Corporation) alone or together with one or more friends or family members.

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 where they are affected by emotional issues.
- To tie the family and the administration of the estate to your chosen and trusted source of professional advice.

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

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	£205 - £305*
Associate/senior associate/principal associate	£215 - £395*
Partner	£450 - £715*

*Please see the information below on the cost of a delay in payment of legal costs.

We review our rates each year and notify clients of any changes. These rates are subject to VAT, currently at 20%.

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. Members of the team are on occasions assisted by a trainee solicitor. Typically, trainees spend four months in the team and work under supervision of a full team member.

The key stages of the work we carry out includes obtaining the Grant of Representation, collecting assets, and distributing estate funds. We will also arrange payment of any taxes due and prepare estate accounts.

On average, obtaining the Grant of Representation takes 6-12 months (including 3-4 months to receive the Grant from the Probate Registry), collecting assets takes 3-6 months and distributing estate funds takes 6-12 months. For a simple estate, most of the work involved is usually concluded within 18 months.

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:

Type of estate	Likely fees based on time spent
Simple UK estate	£7,000 – £12,000 plus VAT of £1,400 – £2,400*
Complex estate	£18,000 – £35,000 plus VAT of £3,600 – £7,000*
Highly complex estate	£50,000 - £95,000 plus VAT of £10,000 - £19,000*

*Please see the information below on the cost of a delay in payment of legal costs.

A simple estate would usually have a valid will with easily identifiable beneficiaries and consist of one UK residential property, a range of bank accounts but no business assets. There would usually be no tax to pay.

A complex or highly complex estate may include a number of specific and cash legacies in the will, business assets, investments, insurance policies and trusts. Tax would usually be payable and claims for available reliefs may need to be made. Reporting requirements would be needed together with financial accounts.

We do not tend to administer estates under £150,000 in value.

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.

There may be some limited circumstances where it is appropriate for the professional executor to 'renounce' the right to act as executor after the relevant death. If the Trust Corporation/ a partner were asked to renounce (usually by the other lay executors or the beneficiaries), careful consideration would be given to the request and the relevant background. We would only agree to do so if it was clear that this was in the best interests of the beneficiaries and that the estate would be appropriately administered without professional involvement. There may be a reasonable charge for dealing with the renunciation in these circumstances.

Disbursements

Disbursements are costs related to the administration of an estate which are payable to third parties. Typical disbursements include:

- Probate court fee – £155
- Land Registry search – £3
- Legal and public notices – £200 (plus £40 VAT)

These costs are approximate.

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.

Our standard terms are to bill monthly, and bills are due on receipt.

Issuing bills at monthly intervals enables the executors and/or beneficiaries to monitor expenditure as the administration progresses.

If it is not possible for the executors to fund the legal costs monthly as standard (usually because they are unable to arrange a loan from a third party or bridging finance, so it is necessary to wait until the grant of probate has been issued to access estate funds) then we may make an additional charge to reflect the delay in payment. This additional cost could take the form of:

- premium hourly rates for the duration of the matter, if working to an estimated fee; or
- an uplift (usually of 15%) of the amounts left unbilled, if working to an estimated fee; or
- an uplift (usually of 15%) to the agreed fixed fee.

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