**The Probate Service**

Guidance and support from W&P Legal

FREE GUIDE | ENGLAND AND WALES

# Your role as an executor or trustee

A plain-English guide to your duties, your responsibilities and your personal liability.

**Inside this guide**

- What to do first, and how to protect yourself
- Applying for probate and dealing with inheritance tax
- Collecting in the estate, keeping accounts and sharing it out
- Your duties as a trustee, and when to get help


TALK TO A REAL PERSON

**0800 612 4512**

Monday to Friday, 8.30am to 5.30pm | **advice@wplegal.co.uk**


Updated November 2026

BEFORE YOU START

# Thank you for taking this on

Being named as an executor is a sign of real trust, and it's an honourable thing to do. It can also feel like a lot, especially while you're grieving.

This guide outlines what an executor does, from the first days after a death to sharing out the estate. It also explains what to expect if you've been named as a trustee. It doesn't cover every technical issue that can come up, so the best rule is simple: if in doubt, ask.

## At a glance

| Question | Short answer |
|---|---|
| What is an executor? | The person named in a will to deal with the estate: collecting in money and property, paying debts and tax, and passing on what's left. |
| What is a trustee? | Someone who looks after money or property held in a trust, for the benefit of other people. |
| Am I personally liable? | Yes. If something goes wrong because of a mistake, creditors and beneficiaries can claim against you personally. |
| Do I need probate? | Usually, if the person owned property, shares or larger bank balances in their own name. The fee is £526 for estates over £5,000. |
| How long does it take? | Most estates take nine to twelve months from start to finish. |
| Can I get paid? | You can claim back reasonable expenses from the estate, but you usually can't charge for your time. |
| Can I say no? | Yes. You can step aside before you start dealing with the estate. Once you've started, it's much harder to stop. |

## In this guide

1 Your role as an executor
2 The first steps
3 Applying for probate
4 Once probate is granted
5 When to get professional help
6 Your role as a trustee
7 Your duties as a trustee
8 How we can help

SECTION 1

# Your role as an executor

## If you can, prepare in advance

If you know you've been named as an executor, it can help to read the will while the person is still alive. There may be things you'd like explained, or wishes that become urgent after a death, such as organ donation or funeral plans. Make sure you know where the original will is kept. If it's stored with W&P Legal, we should be your first call.

## Personal liability

As an executor, you are personally liable for the way you deal with the estate. If a debt is missed, tax is underpaid or someone receives the wrong share, creditors and beneficiaries can pursue you for the loss, even years later. That's why it's so important to follow each step carefully, and to ask for help when you're unsure.

> **Keep the estate's money separate**
>
> Never mix the person's money with your own, even if you are the only beneficiary. Many banks offer an executor or estate account for this. We can point you to providers.

## Being paid for your role

You can claim back reasonable out-of-pocket expenses from the estate, such as postage, travel and the probate fee. Keep receipts. Unless the will says otherwise, you usually can't charge for your time.

## Keeping the family informed

Try to keep the family and beneficiaries updated as things progress. They may be able to help with information, and most people simply want to know roughly when things will happen. Good communication prevents a lot of disagreements.

## Is the estate solvent?

Before you start, think about whether the estate can pay its debts. If it looks as though the debts are more than the estate is worth, get advice before you accept the role, so you don't take on any personal liability.

SECTION 2

# The first steps

## 1 Let people know

Tell family and close friends. It can help to share this with another family member.

## 2 Register the death

This must be done within five days, unless a coroner is involved. A medical examiner will usually contact you and the registrar first. Then make an appointment at the local register office. Buy several copies of the death certificate, as you'll need them for banks, insurers and others. The registrar will also give you a reference for the government's Tell Us Once service.

## 3 Find the will

You'll need the original will, not a copy. Check the person's papers, and ask their bank and any solicitor or will writer they used.

## 4 Arrange the funeral

Check whether the will or a pre-paid funeral plan includes funeral wishes, and see that they are carried out where possible. The funeral is usually one of the first costs paid from the estate. The registrar will give you a form allowing the burial or cremation, which goes to the funeral director.

## 5 Secure the assets

Make sure property is locked up and insured, valuables are stored safely and any cash is accounted for. If the home will be empty, tell the insurer straight away. Most standard home insurance stops covering an empty property after a set period, often 30 to 60 days, so you may need specialist unoccupied property cover. You can be held personally liable for losses.

## 6 Tell the relevant organisations

Tell Us Once covers most government departments. You'll also need to contact banks and building societies, pension providers, insurers, the person's employer, utility companies and the council.

SECTION 3

# Applying for probate

A **grant of probate** is the official document, issued by the Probate Registry, that confirms your authority as executor. Banks, building societies, share registrars and the Land Registry will usually need to see it, or an official copy, before they release money or transfer property.

## Do you need it?

There is no set legal limit below which probate is never needed. Each bank and building society decides how much it will release without a grant, and the limits vary. You will almost always need probate if the person owned a house or land in their sole name, or as 'tenants in common'. Ask each organisation what it needs before you apply.

## Value the estate

List everything the person owned and owed on the date they died, and get a date of death valuation for each. You'll need these figures for HMRC and for your application. Declare everything carefully, and claim every relief the estate is entitled to. There are penalties for getting it wrong.

## Deal with inheritance tax

Most estates are 'excepted estates', which means no inheritance tax is due and no full tax return is needed. If tax may be due, you send form IHT400 to HMRC and pay at least some of the tax before you can apply. HMRC then sends you a code to include in your application.

- Tax is due by the end of the sixth month after the death. Interest is charged after that.
- Tax on property can often be paid in yearly instalments. Get advice on whether this would help.
- Many banks will release money from the person's accounts straight to HMRC to pay the tax.

## Make the application

Apply online through GOV.UK, or by post using form PA1P. You'll send the original will and confirm a statement of truth, which means you take personal responsibility for the information being correct. The fee is £526 for estates over £5,000. Order extra copies of the grant at the same time, at £2 each, rather than £16 each later.

## Make a list of the debts

The estate must pay what the person owed: mortgages, loans, credit cards, household bills, tax and overdrafts. **Be thorough, as you could become personally liable for any debts that are missed.**

SECTION 4

# Once probate is granted

## 1 Place the statutory notices

Place a deceased estates notice in The Gazette and a local newspaper, then wait at least two months before sharing out the estate. This protects you if an unknown creditor appears later. We can help with the wording.

## 2 Collect in the estate

Send a copy of the grant to each bank, pension provider and other organisation holding money, and have it paid into the estate account. Sell or transfer any property. Pay the debts and any costs that arise along the way, and keep receipts for every payment. If the estate can't pay all its debts in full, there are strict rules about the order of payment, so stop and get advice.

## 3 Set up any trusts in the will

If the will creates a trust, you may also be one of the trustees. Make sure the trust is properly set up and the right assets are transferred into it. If you aren't a trustee, you'll need to transfer the trust's share to the people who are. See sections 6 and 7.

## 4 Prepare estate accounts

Keep a full record of what the estate owned and owed, and every payment in and out. The main beneficiaries, or the trustees, have a legal right to see these accounts. Ask them to approve and sign them.

## 5 Share out the estate

Once the accounts are approved, share out the estate as the will says. Ask each beneficiary to sign a receipt confirming they've received their full entitlement. You should be able to show exactly what you did and why.

## 6 Keep the records

Store all the paperwork, including the grant, securely for at least twelve years.

SECTION 5

# When to get professional help

Many executors deal with straightforward estates themselves. But we strongly recommend getting professional help if any of these apply:

### Changes to the will

The person changed their mind after the will was signed and tried to alter it. Handwritten changes may or may not be valid.

### Business or farm assets

The estate includes a business, agricultural land or farm property. Executors may need to run the business until it can be sold or wound down.

### Trusts and unusual assets

The person had an interest in a trust, owned shares in a private company, or the will creates trusts.

### Family disagreements

Sadly, a death can bring out the worst in some people. If disputes start, protect your position by getting advice early, or by using professionals to deal with the estate.

### Tax

Inheritance tax is due, or there are questions about income tax or capital gains tax before or after the death, or how tax affects the legacies.

### Debts or missing people

The estate may not be able to pay its debts, or a beneficiary can't be traced.

If a dispute turns into a legal claim, we work with our SRA-regulated partner, Bright Legal.

SECTION 6

# Your role as a trustee

If you've been named as a trustee, you may be wondering what you need to do, and when. That depends on the type of trust.

## Trusts set up by a will

There's nothing for you to do until the person who made the will dies. After that, the executors transfer the trust's assets to you and your fellow trustees. This could be cash, property or investments, and each is handled differently.

### Cash

Open a trust bank account in the trustees' names. Most trusts need some cash in reserve for costs, and an account to receive any income. We can point you to banks that offer trust accounts.

### Property

If a surviving husband, wife or partner lives in the property, make sure it's properly insured and that they know they're responsible for the bills and for keeping it in good repair. Beyond that, there is usually little else to do.

If the property is empty, insure it first. Most standard home insurance won't cover a property left empty for a long period, so check the policy. Then decide its future. If the beneficiaries are young or vulnerable, renting it out may give them an income. If they're older and likely to need capital soon, selling may be better.

### Investments

Take advice from a qualified independent financial adviser, and agree your aims. How long will the money be held? Is it for growth or income? Who will benefit in the end? Your adviser will suggest a strategy for the trustees to follow.

## Register the trust

Most trusts must be registered on HMRC's Trust Registration Service, usually within 90 days of being set up or of having to pay tax. Some trusts created by a will don't need registering for the first two years after the death. Check at **gov.uk/guidance/register-a-trust-as-a-trustee**, or ask us to help.

## Lifetime trusts

Many of the same points apply to trusts set up during someone's lifetime. The difference is that the person setting up the trust, called the settlor, transfers the assets to you directly. Meet with your fellow trustees regularly, at least once a year, to review the trust, the beneficiaries and any decisions about investments or payments. Keep records of everything you do.

SECTION 7

# Your duties as a trustee

The law places a number of duties on trustees. The trust document can add to or change some of them.

| Duty | What it means for you |
|---|---|
| Duty of care | Use reasonable skill and care (Trustee Act 2000, section 1). More is expected of professionals, such as a lawyer or financial adviser, than of a family member. |
| Register the trust | Register on HMRC's Trust Registration Service when required, keep the details up to date, and make any tax returns. |
| Take advice | Before investing, get and consider proper advice from a qualified adviser, unless it is genuinely unnecessary (Trustee Act 2000, section 5). |
| On being appointed | Check you were properly appointed, who the beneficiaries are, that the assets are in the trustees' names, that investments fit the trust's terms, and that previous trustees didn't breach the trust. |
| Safeguard the assets | Protect the trust's property, including recovering anything owed to it. |
| Act together | Trustees of a private trust must make decisions unanimously. |
| Distribute correctly | Pay out income and capital only to people entitled under the trust. If it's unclear, you can ask the court for directions. |
| Be impartial | Don't favour one beneficiary over another. For example, balance income for a life tenant against keeping capital safe for those who inherit later. |
| Keep accounts | Keep accurate accounts and show them to beneficiaries on request. You don't have to explain the reasons for discretionary decisions. |
| Invest sensibly | Invest to maintain the trust's value, spread the risk, and review the investments regularly, usually once a year. |
| Delegate with care | You can appoint agents, such as an investment manager, if allowed. Choose carefully, agree a written policy and keep it under review. |
| Loyalty | Act only in the trust's interests, in good faith. Don't profit from the trust or let your own interests conflict with it. |

## Who can be a trustee?

Anyone aged 18 or over, including a beneficiary. An undischarged bankrupt shouldn't act. No more than four trustees can hold land. Two or more trustees are needed to give a valid receipt when trust land is sold, so most trusts have at least two.

## Changing trustees

Trustees can retire and new ones can be appointed, usually by deed. The trust's assets must then be transferred into the names of the new trustees. Take advice so the change is done correctly.

> **The decision to act shouldn't be taken lightly**
>
> If the trust loses money because a trustee breaches these duties, that trustee can be personally liable. In some cases, trustee indemnity insurance may be worth considering.

SECTION 8

# How we can help

You don't have to go through this alone.

Being an executor or trustee is a significant responsibility. For more than 15 years, W&P Legal has helped hundreds of people through estate administration and trustee decisions. Getting the right help protects you from personal liability, and in many cases we can take the work off your hands entirely.

- a free, no-obligation call to talk through your situation
- help with one part, such as valuing the estate, dealing with HMRC or the application
- looking after the whole estate for you, from start to finish
- help registering and running a trust, and introductions to independent financial advisers
- fixed fees agreed up front, with no percentage of the estate

Everything can be done by phone, video and post, wherever you are in England and Wales. Many of the executors and trustees we help later ask us to look at their own planning. We're happy to talk about that whenever the time feels right.

## Would it help to talk it through?

We'll listen, answer your questions and explain your options. If you'd rather do it yourself, we'll tell you how.

**0800 612 4512**

Monday to Friday, 8.30am to 5.30pm. We usually reply within a couple of hours.

**Speak to an advisor**

### Bereavement support

Grief can be overwhelming, especially alongside paperwork. Cruse Bereavement Support offers free support on 0808 808 1677. Samaritans are available any time, day or night, on 116 123.

# The Probate Service

Guidance and support from W&P Legal

You don't have to do this alone. Whether you want a quick answer, help with one part, or someone to take care of the whole estate, we're here.

## 0800 612 4512

Monday to Friday, 8.30am to 5.30pm

**advice@wplegal.co.uk** | **theprobateservice.org**

**Speak to an advisor**

The Probate Service is run by W&P Legal, Unit 4, The Stirling Centre, Stirling Way, Market Deeping, PE6 8EQ. We are voluntarily regulated by the Society of Will Writers and Estate Planners' professional standards body, and are members of STEP and the Institute of Paralegals. Any reserved legal work is carried out by our SRA-regulated partner, Bright Legal. We are not part of HM Courts and Tribunals Service.

This guide gives general information about the law in England and Wales and was correct in November 2026. It is not legal advice about your situation.