

Non-contentious Probate

Solicitors' charges for remuneration in non-contentious matters are governed by Solicitors' (Non-Contentious Business) Remuneration Order 2009, SI 2009/1931, as amended by SI 2010/2262 and SI 2012/171.

Article 3 of the 2009 Remuneration Order states:

A solicitor's costs must be fair and reasonable having regard to all the circumstances of the case and in particular to—

- (a) the complexity of the matter or the difficulty or novelty of the questions raised;
- (b) the skill, labour, specialised knowledge and responsibility involved;
- (c) the time spent on the business;
- (d) the number and importance of the documents prepared or considered, without regard to length;
- (e) the place where and the circumstances in which the business or any part of the business is transacted;
- (f) the amount or value of any money or property involved;
- (g) whether any land involved is registered land within the meaning of the Land Registration Act 2002;
- (h) the importance of the matter to the client; and
- (i) the approval (express or implied) of the entitled person or the express approval of the testator to—
 - (i) the solicitor undertaking all or any part of the work giving rise to the costs; or
 - (ii) the amount of the costs.

We are also guided by the decision of the Court of Appeal in *Jemma Trust Company Ltd v. Liprott* [2003] EWCA Civ 1476

Price and Kelway non-contentious fees will vary from case to case. Taking the above guidance and client instructions into account, we will consider:-

- The time we expect it to take to fulfil our instructions
- The nature and size of the estate
- The complexity of the assets and realisation thereof
- The level of required expertise
- The overall value of the estate

- The number of beneficiaries and separate legacies
- The level of accounting to HMRC for Inheritance Tax

An estimate of our fees based on your instructions shall be given when we have sufficient information taking the above points into account in relation to your particular matter. Estimates are periodically reviewed, and the time spent on the matter could well be less but, equally, it could be more. In any event we will not go above that figure without informing you in advance and obtaining your agreement to our continuing.

Our charges are based mainly on the time spent by the fee earner in dealing with the matter. There may also be an element based on the value of the estate. This is because the value is a reflection of the importance of the matter and the responsibility on the firm.

As for time spent, the hourly rate to be charged will typically be an inclusive figure incorporating the fee earner's expense rate and any appropriate care and conduct uplift. This will differ with the level of fee earner handling the matter but the charge shall accord with the SRA guidelines on hourly rates. The value element will either be charged in addition to an hourly rate, or it will be included in the hourly rate. It will not be reflected in both charges.

We will take all the circumstances into consideration to ensure that our overall level of charge is fair and reasonable.

Applying for the grant, collecting and distributing the assets – EXAMPLE QUOTE

This quote is for estates where we are instructed to handle the full process which would include:

- Provide you with a dedicated and experienced probate solicitor to work on your matter
- Identify the legally appointed executors or administrators and beneficiaries
- Accurately identify the type of Probate application you will require
- Obtain the relevant documents required to make the application
- Complete the Probate Application and the relevant HMRC forms
- Draft a legal oath for you to swear
- Make the application to the Probate Court on your behalf
- Obtain the Probate and securely send two copies to you
- Collect and distribute all assets in the estate

This particular example quote is based on the following assumptions:

- There is a valid will
- There is no more than one property
- There are no more than 2 bank or building society accounts
- There are no other intangible assets
- There are 2-4 beneficiaries
- There are no disputes between beneficiaries on division of assets. If disputes arise this is likely to lead to an increase in costs
- There is no inheritance tax payable and the executors do not need to submit a full account to HMRC
- There are no claims made against the estate

Disbursements included in this fee:

- Probate application fee of £155
- £7 Swearing of the oath (per executor)
- Bankruptcy-only Land Charges Department searches (£2 per beneficiary)
- £87.10 plus VAT Post in The London Gazette – Protects against unexpected claims from unknown creditors.
- £185.50 plus VAT Post in a Local Newspaper – This also helps to protect against unexpected claims.

Disbursements are costs related to your matter that are payable to third parties, such as court fees. We handle the payment of the disbursements on your behalf to ensure a smoother process.

An estate such as this would typically take between 6 and 8 hours work at the fee earner's rate. Total time costs estimated at £750-1500 (+VAT). The exact cost will depend on the individual circumstances of the matter. For example, if there is one beneficiary and no property, costs will be at the lower end of the range. If there are multiple beneficiaries, a property and multiple bank accounts, costs will be at the higher end. **This estimate does not take into account a value element charge which is decided on a case by case basis.**

Potential additional costs

- If there is no will or the estate consists of any share holdings (stocks and bonds) there is likely to be additional costs that could range significantly depending on the estate and how it is to be dealt with. We can give you a more accurate quote once we have more information.
- If any additional copies of the grant are required, they will cost £0.50
- Dealing with the sale or transfer of any property in the estate is not included.

How long will this take?

On average, estates that fall within this range are dealt with within 3-6 months. Typically, obtaining the grant of probate takes 8-12 weeks. Collecting assets then follows, which can take between 6-8 weeks. Once this has been done, we can distribute the assets, which normally takes 2-4 weeks.