

A Guide for Executors



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An introduction for Executors

When you have been made the Executor of a Will, your mind might be whirring with questions about what to do next.

And while sorting Wills and estates can appear daunting on the surface — especially during such a sensitive time — you do not have to go through the process alone.

While you might want to cover some areas yourself to help costs, it is important you know where to start, and that you have all the correct information you need.

At LCF Law, we have extensive experience helping families with the administration of the deceased's financial affairs following their death. We are always ready to sit down and talk through how much of the work you want to do yourself and where you need our specialist support.

Whatever stage you are at as an Executor, this guide is designed to reassure you that you are not alone during this difficult time. If you require our guidance, we are right here.

The role and responsibilities of an Executor

As a named Executor, you have the legal right to deal with the deceased person's estate. As a general guide to what happens next, here is what to expect.



Register the death

Our advice is to handle this as soon as possible. When you register the death, ask the registrar to use the 'Tell Us Once' procedure. This means you can let most Government departments and local councils know all at once – such as the DWP and Council Tax Office – making the process a little easier and smoother.

Locate the Will

When it comes to getting copies of the Will, we would advise that you confirm the names of the Executors and check if it contains any funeral directions you need to follow.

Keep the original version of the Will in a safe place and make copies for any co-executors or beneficiaries (people who are set to receive a gift or benefit from the deceased person).

Collate the deceased person's papers

You will need to find all the relevant papers of the person who has died, such as bank statements and house deeds. You can find a list of these in the section called 'What should I do next?'.

When you do find where they are kept, ensure they are stored safely, as you will need them throughout the process.

Arrange the funeral

As the Executor, it is your duty to arrange the funeral and follow all instructions set out by the deceased. If there is a funeral plan, contact the provider and make sure that any specific wishes from the family are followed.

It is also important to note that costs can be paid via the deceased person's bank account.

Obtain Grant of Probate

As Executor you can apply to the Court for Grant of Probate authorising you to manage the deceased's affairs including pay any bills or debts due at the date of death and distributing the balance of the estate in accordance with the provisions set out in the Will.

What is Probate?

When somebody dies, you as the Executor — or a close family member — may need to prove your legal right to deal with the estate.

If there is a Will, then the authority to handle the estate is called a ‘Grant of Probate’. In cases of there being no Will present, this is known as a ‘Letters of Administration’.

Throughout this guide, we will refer to both as *Probate*, and the person(s) administering the estate as the *Executor* — both of which are explained below.

Probate

This is an Order of the High Court which means the Executor has the authority to close bank and building society accounts, to sell or transfer shares, and to sell property to deal with the all of the assets in the estate.

The Executors of a Will can deal with the initial steps of administration before obtaining Probate. However, if there is no Will, then no action should be taken other than preserving assets until formal Letters of Administration have been issued by the High Court.

Is Probate needed?

This depends on the value of the deceased’s estate. If it is of low value, for example, then Probate may not be needed, and you may be able to close accounts and deal with the sale of personal effects without it.

Joint assets usually pass automatically, but if there is a residential or commercial property, it is important that you check the deeds to find out in whose name(s) the property is owned.

What do I need to obtain Probate?

To obtain Probate, as the Executor you may have to complete an Inheritance Tax Return, depending on the value of the estate.

Additionally, you will have to complete a legal statement to show you should be granted Probate, and provide details about:

- Yourself
- The person who has died
- The Will
- The estate of the person who has died

If the estate must pay Inheritance Tax, at least part of it must be paid before Probate can be issued.



What should I do next?

You need to gather the information relevant to the estate. This includes the following:

- The death certificates
- The deceased's date of birth, and their National Insurance number
- Details of any surviving spouse and any descendants
- Details of any gifts involving more than £3,000 in any one year in the seven years before the deceased passed away
- Whether the deceased had any assets outside the UK
- Did the deceased benefit from any pension other than a state pension?
- Details of each bank or building society account, in the deceased's sole name or joint name with another. This includes the name of the bank or building society, the account name, the account number, and the balance at the date of death
- Details of any shareholdings including the name of the company, the nature of the shareholdings and the number of shares held. Please note that these will need to be valued
- A valuation of any property owned by the deceased — whether that was in their sole name or jointly. A formal valuation may be required
- Details of any liabilities, such as the funeral account, credit card debts, or utility bills.

Pay any inheritance tax due

If Inheritance Tax is payable — in other words if the estate is worth more than the £325,000 threshold — you as the Executor will need to consider how to finance this.

Many Executors worry that they need to find this personally, but usually the deceased's bank will make payment direct to HMRC. Typically, the tax due on the house can be paid in instalments until it is sold too.

In addition, we would recommend that you get a professional valuation on any high-value items — for example a house or stock market investments. If you find yourself in this position, we can advise you on next steps.

Register Probate and collect the assets

Once Probate has been received, official copies need to be sent to the relevant organisations holding money, property or assets belonging to the deceased together with any required signed withdrawal forms to carry out your instructions so that accounts can be closed, and assets sold or transferred.

Pay debts and legacies

As the Executor, you will need to ensure all debts are identified and paid once funds are available, and then deal with the legacies (gifts) in the Will.

Pay Income Tax and Capital Gains Tax of the deceased

You must ensure that any tax affairs are finalised relating to the period prior to the death and deal with any Income Tax or Capital Gains Tax arising during the administration of the estate.

If there is Inheritance Tax to pay, we can advise on any reliefs or exemptions that may be available and reduce the tax bill, where possible. If it is a more straightforward estate, we can also deal with whatever aspects are needed, so you do not need to worry.

Complete the administration

Depending on the size of the estate, and the wishes of the beneficiaries, you may need to prepare Estate Accounts.

Beneficiaries are entitled to see the details of the estate so they can check how the amount has been worked out.

Finally, if the estate is subject to Inheritance Tax, you will probably want confirmation from HMRC that no further tax is due, before making any final distributions.

Should I use a solicitor?

There are often complications through the Probate process which can mean employing a specialist solicitor is well worth the financial investment, not to mention the ability to offer you true peace of mind. The costs of the legal advice will be a cost of the deceased estate but a liability of the Executor(s).

If any complexities arise — for example if there are foreign assets or Inheritance Tax to pay — an experienced solicitor can handle these far more easily than someone who is unused to dealing with such matters and is trying their best, ultimately relying on the internet for advice.

If there are several beneficiaries, there may be criticism or scrutiny from those other family members who may not appreciate the work involved and be impatient to receive what they believe is due to them as soon as possible. So, only take on what you can handle.

How do I choose a good solicitor?

Not all solicitors specialise in this area. Our advice would be to select a solicitor with specialist knowledge and suitable experience — it doesn't have to be the person who prepared the Will, for example.

Professional associations, such as the Society of Trust and Estate Practitioners (STEP) and Solicitors for the Elderly (SFE), require prospective members to have a certain number of years' specialist experience and to pass certifying exams. Both organisations have details of local members on their website, so you can find out a little more.

At LCF Law, many of our solicitors are fully qualified members of one/both organisations.

Overall, a personal recommendation is hard to beat. Make sure you have somebody who not only has the technical knowledge, but also the personal skills to help you during this difficult time.

How much do solicitors charge?

Employing a solicitor doesn't need to cost the earth. Most professionals are happy to discuss an estate and to provide a no obligation estimate. Plus, there are several factors that will affect the ultimate costs, for example:

1. The number of assets; and
2. Whether the paperwork is all in order — this can make a surprising difference to the amount of work needed.



At LCF Law, we can talk you through how much of the work you want us to take on.

To help you understand our costs a little more, we have published fixed fees for certain aspects of the process. Once we know what is required from you and an idea of the specific work involved, we can offer the certainty of a fixed fee for all aspects, if you wish. Alternatively, you can simply pay for advice and guidance as and when you need it.

Why should I use LCF Law?

We are a friendly, approachable team and, for over 35 years and more, we have successfully helped families and businesses in Bradford, Ilkley, Harrogate, and Leeds to solve their legal issues.

It is our mission to deliver services which not only meet but exceed your expectations. We pride ourselves on being straight-talking and are here to listen to your concerns and offer trusted advice in language you understand.

When you speak to us, you will receive the reassurance you need throughout this challenging time. Our decades of experience and knowledge mean we have dealt with most circumstances that can occur, too.

Whatever stage you are at in the role of an Executor, get in touch with our expert team:



Neil Shaw
Partner,
Head of Personal Law

Neil has over 25 years' experience in advising people about Wills, Trusts and estate planning. Neil's wealth of knowledge and understanding in what are sensitive and emotive issues enables him to provide appropriate solutions to client's concerns allowing them to get on with the important things in their lives, confident that their affairs are in order.

Neil Shaw is a full member of The Society of Trust and Estate Practitioners (STEP).

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Ann Christian qualified as a Solicitor in 2001 and has specialised in Private Client work since then. Assisting clients to plan for the future and protect their assets — particularly with a view to tax planning and care home fee planning — Ann also deals with estate administration and incapacity issues. She also advises on the creation and operation of trusts.

Ann is a full member of The Society of Trust and Estate Practitioners (STEP) and a full member of Solicitors for the Elderly (SFE). Ann also sits part-time as a member of the First Tier Tax Tribunal.

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Haroon Qayum
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Haroon Qayum advises families and individuals on all aspects of Private Client Law, including Wills and Trusts, administration of estates, lasting Powers of Attorney, inheritance and estate tax planning in particular strategic succession planning for families with cross-border assets and family businesses.

Haroon specialises in advising high net worth individuals and family business owners on estate planning issues and is regularly involved in the administration of cross-border estates.

Haroon is a full member of the Society of Trust and Estate Practitioners (STEP) and has completed the STEP Advanced Certificate in Cross-Border Estates and the STEP Advanced Certificate in Advising the Family Business.

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Amjed has acted for clients in many jurisdictions of different religious and ethnic backgrounds, in relation to succession and tax planning for either UK clients who have assets overseas, or overseas clients with assets in the UK.

He is able to provide advice on domicile for inheritance tax purposes (which can be used in dealings with HMRC) as well as advising clients about Powers of Attorney including foreign jurisdictions. He is also able to provide Sharia compliant advice and Wills.

Amjed Zaman is a Member of the STEP Cross Border Special Interest Group and a full member of Solicitors for the Elderly (SFE).

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Amjed Zaman
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Hana Gwyn
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Hana Gwyn, who qualified in 2015, has an excellent academic and professional record. Hana joined LCF Law from Manchester-based Kuits. With experience in all areas of Private Client work, with a particular focus on working with High Net Worth individuals, she provides Trust and Tax planning advice, Wills, Lasting Powers of Attorneys, Probate and Court of Protection services.

Hana Gwyn is a full member of the Society of Trust and Estate Practitioners (STEP).

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Whatever your challenge or need, LCF is here to help you.
Please don't hesitate to get in touch.

Neil Shaw

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