

Conducting the legalities of an estate after someone dies – the pros and cons

Contrary to popular belief, getting an inheritance is not quite as simple as collecting what you are owed in a will.

Rather, it can take a complex process known as Confirmation in Scotland or Probate in England which must often be followed, in order to access, manage and distribute money and property owned by the person who has died. The property is known as the 'estate', and those responsible for the legal process, called the executors, have to gain the authority of the court to deal with a dead person's estate.

Despite the fact that this is a legal requirement in more than 50% of deaths, around 39% of Scots remain unaware of the process, according to latest research by My Probate Partner. In addition, 52% continue to believe that it is possible to access a family member's finances once they have died without the need for any paperwork or planning.

This may lead recently bereaved people to hire a lawyer to deal with the process, sometimes resulting in a bill of many thousands of pounds. In surveying members of the Scottish public on their understanding and perception of the legalities, 90% underestimated the amount they would be charged, with 55% believing that the bill – which tends to range between £4,000 and £8,000 for an average sized estate (£270,000) – would cost them £1,000 or less.

And in approximately 90% of cases, this expense may simply not be necessary, given that a lawyer is only required when there is no Will and the estate is worth more than £250,000. Upon learning this, many people are tempted to handle the confirmation independently. But is it truly worth it?

The pros of doing it yourself

Cost savings

The amount people can save by not using a lawyer to wind up an estate can be substantial. Some lawyers charge as much as £400 per hour (plus VAT), so it is not hard to understand how some estates can cost tens of thousands of pounds to process. A solicitor must however offer an estimate of the fee before commencing any work on behalf of a client.

Faster resolution

Another core benefit of handling the estate personally is the ability to move much more quickly and keep delays to a minimum, – something that may be best for those seeking to wind matters up as soon as possible, be it for financial or emotional reasons. Lawyers might take more than a year to get through the process, and there are some who put communication with clients low on their priority list, which might add to stress.

Personal control and involvement

Deciding to deal with the confirmation process without a lawyer can prove comforting to those left behind. It gives them a sense of connection to the dead person, feeling that they are doing more to ensure that their wishes are fulfilled and that their money ends up where they wanted it.

The Cons

Legal complications

Unfortunately, the Scottish legal system can be complex and it can be challenging to navigate without professional guidance. The application requires the preparation of a detailed inventory of all property, assets and debts to be submitted to the Sheriff Court nearest to the deceased person's last address (or at Edinburgh Sheriff Court, if they resided outside Scotland). All values must be accurate to the date of death and there will be a fee for processing, depending on total estate value.

Most Sheriff Courts – the administrative bodies responsible for granting Confirmation – have different application standards, making rejection rates exceptionally high, although sheriff court staff can often be very helpful in these circumstances. When dealing with things alone, there is a much larger margin for error, increasing the risk of core details being overlooked. Such oversights might lead to later delay, offsetting any time-saving benefits – and it can become emotionally taxing to have to repeat the process over again in the event of failure, to such an extent that people often end up paying a lawyer to process things anyway.

Significant commitment

Dealing with an application for confirmation can be a considerable commitment of both time and emotion. The form might at first appear complicated, especially when there are other pressures like funeral arrangements. With 79% of Scottish people unsure what Confirmation actually is and what the process entails, according to the [My Probate Partner](#) study, there can be a steep learning curve.

A middle ground

It's a dilemma that nobody should be faced with while also dealing with the emotional aftermath of a death – but, there is a solution. Provided that official solicitor involvement is not a requirement, executors can turn to an independent support service for guidance. This cuts out costly legal fees

without reducing access to expertise.

People who wish to can remain in control of the Confirmation process, without the pressure of piecing together information about how the system works. It is possible to cut down the process by months and costs by thousands, most importantly of all, reducing personal stress and frustration at what can be a time of emotional difficulty.

Such collaboration can prove beneficial, with research by [My Probate Partner](#) revealing that, whilst 65% of Scottish people would consult a solicitor in the event of a family member's death, 11% would seek out support online. With the invention of Probate support services, the number of people seeking help online could increase dramatically, allowing people to safely make use of available, low-cost, online tools.

Probate support services as the solution

No grieving person should be forced to decide between financial woes and an ongoing administrative nightmare. Support services are the perfect solution, allowing Scots to avoid the pitfalls of DIY probate, leveraging expertise that is similar to that of a lawyer in most cases, without the high costs and avoidable delays.

<https://www.myprobatepartner.co.uk>

[My Probate Partner](#) is an online platform designed to help individuals maintain control of the probate process by providing guidance and support where required. Mike Davis is founder and Director of the firm.



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