



Beneficiaries

Helpful information for
beneficiaries of a Will



NSW Trustee
& Guardian

NSW Trustee & Guardian administers

deceased estates with professionalism

and understanding.



Contents

About NSW Trustee & Guardian	2
1. What executors and trustees do	3
How will we help?	3
Your client service team	3
2. Estate administration	4
What is an administrator	4
Who shares in the estate if there is no Will?	4
Time taken to administer an estate	4
How are liabilities paid?	4
What are the main steps?	5
3. Fees	6
What do we charge to administer an estate	6
What do our fees cover?	7
What's not covered	7
4. Trusts	8
What if assets are held in trust?	8
How do we administer a trust?	8
What are the costs of a trust?	9
How do we invest?	9
5. Inclusive services	9
6. Our commitment	9

Fees outlined in this document are current at the time of publication and are subject to change. Visit our website for our current fees: **tag.nsw.gov.au**



About NSW Trustee & Guardian

NSW Trustee & Guardian protects, promotes and supports the rights, dignity, choices and wishes of the people of NSW, including some of the state's most vulnerable people.

We do this by providing a range of services including Will-making, trustee, financial management and guardianship services.

We offer independent and impartial attorney services and have the

expertise of solicitors, accountants, trust managers, tax and investment specialists.

We may also administer an estate when someone else is appointed executor but asks NSW Trustee & Guardian to take over their role, or where someone dies without a valid Will (intestate).

This guide explains the process of carrying out the wishes expressed in the Will and how we will help you during this time.

Key terms used in this section

Assets

A person's real estate or personal property, such as house, car, boat, shares, money, jewellery or pets.

Beneficiary

People, charities and organisation included in the Will of someone who has passed away and have been left a gift or benefit from their estate.

Liabilities

Any debts that the person had before they passed away, especially any money owed.

Trust

A relationship where a person or organisation (trustee) is under obligation to hold real estate and money to benefit other persons (beneficiaries).

Trustee

A person or organisation responsible for administering a trust on behalf of the person who created it.

Will

An important legal document that sets out who you want to receive or benefit from your assets when you die.

1. What executors and trustees do

The executor and trustee is the person who carries out the last wishes in the Will. Legally there are two parts to our role – as the executor we are responsible for administering the estate, while as the trustee we are responsible for paying the beneficiaries (you and anyone else who receives something from the Will). If any of the assets need to be held in trust, for instance if there are young children involved, our role as trustee carries on until everything is paid out.

How will we help?

We provide a personal, professional and impartial service to legally administer the estate and carry out the decisions made in the Will.

As the Executor, we will:

- make sure the last wishes are carried out
- guide and advise you through the whole process
- listen to your views, consult you and keep you informed
- properly protect and manage your inheritance until it can be passed to you
- be independent and fair if there are any issues or disputes.

Your client service team

When NSW Trustee & Guardian is the executor and trustee, you and any other beneficiaries in the estate will be looked after by a designated client service team to guide you through the process. They work with you and any other beneficiaries to ensure that the terms of the Will are carried out in a

way that is fair to everyone. They will listen to your views, consult with you on important decisions, offer impartial advice, work to resolve any difficulties and keep things moving.

Our client service teams are made up of highly skilled specialists who understand the management of all types of estates. They are supported by our wide range of legal, financial, property, tax, and investment professionals.

2. Estate administration

What is an administrator?

We can be appointed by the court to be the administrator of an estate when there is:

- no Will (intestate)
- a Will but no executor is appointed
- a Will but the executor cannot act or appoints NSW Trustee & Guardian to act in their place.

The duties and powers of an administrator are essentially the same as an executor.

Who shares in the estate if there is no Will?

If a person dies without having made a Will (intestate), the law sets out how their estate is shared amongst their relatives. We research the family tree, locate the relatives and confirm their entitlement.

Time taken to administer an estate

The time taken to administer an estate varies widely and is dependent on the complexity of the estate. Factors such as how long it takes to sell assets such as real estate, if anyone contests the Will, and locating missing beneficiaries can also play a role.

The law provides that an estate should not be distributed prior to 6 months from date of death, and the expiration of 30 days after a notice of intended distribution has been published, for executors to be protected from claims against the estate. Most estates are finalised within a 7-12 month period, however if there are complex circumstances it may take longer.

If the Will is contested, or an entitlement in the estate needs to be determined (e.g. where there is no Will) the administration will be delayed. Your client service team will keep you informed of any unexpected delays that may occur.

How are liabilities paid?

Debts are sometimes paid out of the estate before everything is shared out amongst the beneficiaries. However, if you are to receive a gift specifically from the Will, you may be liable for any expenses associated with this gift. For example liabilities connected to a property gifted to you need to be paid. This includes council rates, utilities and insurance.

What are the main steps?



Contacting the beneficiaries

We contact you and all other beneficiaries to explain what is involved and discuss issues which might affect the estate. We discuss the estate plan and timetable with you and confirm it all in writing.



Getting court approval

We apply to the Supreme Court for a grant of administration (probate). This gives us approval to deal with the assets.



Confirming assets

We contact banks, insurers, financial and government institutions, and others to obtain full details of what the estate owns and owes, and arrange for assets to be transferred to the estate. We also arrange valuations and appraisals of assets.



Dealing with assets

While we ensure the wishes of the Will are carried out, we ask your views on the handling of the assets where the terms of the Will permit. We manage the paperwork and contact agents, close bank accounts, finalise pensions, household accounts and other outstanding matters. We ensure any assets held are protected by insurance and manage them until everything is settled. If the assets are to be held in trust, we may be responsible for their management for some time.



Paying taxes and debts

Before anything can be paid out, the estate must pay any expenses and debts and prepare tax returns as required. We manage all of this for the estate.



Accounting for everything

When we have finalised the estate, we will send you a final statement with the details of all the assets and how they were distributed, debts paid and all costs and expenses.

3. Fees

What do we charge to administer an estate?

NSW Trustee & Guardian fees are competitive and are regulated. We charge a fee that covers the work done to obtain a grant of probate or administration, and the work to administer and distribute the estate.

The fee incurred is based on the value of solely owned assets in the estate. Joint assets, such as bank accounts or a house will not attract a fee.

The fee is based on a sliding scale set out in the following table:

Fees (including GST)	
One-off executor fee	Based on asset values: 4.4% on the first \$100,000 3.85% on the second \$100,000 2.75% on the third \$100,000 1.65% any amounts over \$300,000 Minimum fee of \$220
Estate management	0.77% per year on value of assets held
Account keeping	\$132 per year
Investment	0.165% per year of value of Primary Portfolio and 0.385% of Growth portfolio invested in NSW Trustee & Guardian

Additional fees that may apply (including GST)	
Lodgement of tax return	\$297 first hour \$253 additional hourly rate (charged in 15 minute blocks)
Tax investigation without lodgement	\$148.50 first hour \$253 additional hourly rate (charged in 15 minute blocks)

If legal work is undertaken for you by external legal service providers their costs will be additional to NSW Trustee & Guardian fees.



What do our fees cover?

Our fees cover the following steps involved in administering the estate:

- confirming the Will is valid
- contacting the beneficiaries
- confirming entitlement in the estate (when there is a Will)
- preparing a plan setting out what will be done (the administration plan)
- applying to the court for approval to go ahead (for the grant of probate or administration)
- writing to banks and organisations to obtain asset details
- arranging asset valuations and inventories
- consulting with beneficiaries and keeping you informed of progress
- sorting out debts and taxation
- managing the sale or distribution of assets
- preparing a final statement of the whole process
- storing estate records.

What's not covered?

Our standard fees don't cover costs from other organisations e.g. banks and services related to real estate assets including buying, selling and valuations; ongoing fees to manage assets held in trust; and out of pocket expenses such as postage, phone and photocopying.

There may be further costs for additional work, for instance if legal advice is required, realty inspections, overseas assets involved, the entitlement or Will is contested, or we have to search for missing beneficiaries and/or prepare family trees.



A full schedule of
NSW Trustee & Guardian fees
is available on our website
tag.nsw.gov.au/fees



You can trust us to be fair. Sometimes there are several beneficiaries with differing needs. It's our job to make sure everyone's interests are recognised and dealt with fairly and that the law and the terms of the Will are complied with.

4. Trusts

What if assets are held in trust?

The Will may state that assets are to be held in trust for a period of time i.e. until the beneficiary reaches 21 years of age.

In keeping with the terms of the Will, we handle every aspect of the financial affairs from managing property and investing funds, taking care of the paperwork and legal matters to advancing money for the beneficiaries e.g. for school fees.

How do we administer a trust?

We have a duty to administer the trust in accordance with the terms of the Will, deed, or court order. If appropriate, we will ask the person named in the trust about their needs and consider any specific requests as permitted. Then we will work out an appropriate strategy for managing the assets and investments. The trustee has the final responsibility for managing assets and investments and is required by law to act prudently and in the best interests of all beneficiaries.

What are the costs of a trust?

The fees depend on the nature of the trust and what we are required to do. There are fees for managing the assets and investments, and fees for professional services such as legal work. These will be worked out and fully explained to you. If NSW Trustee & Guardian administers an estate, including a continuing testamentary trust, the one-off trustee fee is not charged.

How do we invest?

Part of our role may be investing money. As a trustee we are required by law to invest this money prudently and are guided by the terms of the Will and by the *Trustee Act 1925 (NSW)*.

We continually review fund and portfolio management to provide market returns within acceptable levels of risk.

5. Inclusive services

Everyone is different, so it is important that you tell us the type of adjustment you require.

Requesting an adjustment can include:

- bringing a support person with you
- wheelchair access
- hearing amplification or relocating to a quieter area
- access to an interpreter
- documents in large print or electronic formats

Some reasonable adjustments may require additional time to organise. If you are unsure please contact us in advance of your appointment.

6. Our commitment

We are committed to protecting, promoting and supporting the rights, dignity, choices and wishes of our customers. If you have any questions or concerns or feedback, contact your client service team.

Plan ahead with the #1 Will maker in NSW

A valid Will, Power of Attorney and Enduring Guardianship documents give you peace of mind that your wishes will be respected, and both you and your loved ones are taking care of.

Plan for your future legal, financial and health decisions today with NSW Trustee & Guardian.

Contact us



1300 10 20 30



tag.nsw.gov.au

Office locations

- Bathurst
- Broken Hill
- Lismore
- Newcastle
- Parramatta
- Port Macquarie
- Sydney CBD
- Wagga Wagga
- Wollongong

Services

- Will Making
- Will Safe Storage
- Power of Attorney
- Enduring Guardianship
- Trust Administration
- Deceased Estate Administration
- Financial Management



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