

Probate fee increase

Synopsis: The standard probate fee, which will be raised by £27 to £300 in May 2024.

Date published: 10.04.2024

The Ministry of Justice (MoJ), published a consultation paper 'Implementing increases to selected court and tribunal fees' in November 2023.

The consultation invited comments on the proposal to increase a selection of court and tribunal fees by 10% to partially reflect changes in the consumer price index (CPI) since 2021, the last time that fees were increased. This included asking for views from the public on the principle of increasing fees to reflect changes in the general level of prices, the scope of the fees that we proposed to increase, and the impact of the proposals on individuals with protected characteristics. Comments were also sought on two further proposals.

The first was to establish a routine approach to updating fees every two years, accounting for changes in the general level of prices and His Majesty's Courts and Tribunals Service (HMCTS) costs; and secondly, to set the council tax liability order fee under the Lord Chancellor's 'enhanced' power. This power would allow the MoJ to set the fee at a value above its underlying cost to HMCTS to account for regular fluctuations in its cost, and therefore to retain the fee at its current value of £0.50p. The consultation period closed on 22 December 2023.

The Government said that, after careful consideration of the consultation responses received and further analysis of the costs underpinning fees, it had decided to proceed with increases of 10% to 172 of the 202 fees originally proposed. In light of the feedback from the consultation, the Government decided to not increase the divorce application fee from its current level of £593, at this moment in time. The same fee also applies to an application for nullity or civil partnership dissolution.

The £95 fee for amendment of application for matrimonial or civil partnership order, and the £245 fee for answer to an application for a matrimonial or civil partnership order, also remain unchanged.

England and Wales Court of Protection hearing fees are also unchanged at £494, though the fees to apply for action under, a hearing under, or to appeal a decision made under the *Mental Capacity Act 2005* are among those being increased by 10%. The Government decided to retain the current value of the council tax liability order fee at £0.50p.

The standard probate fee will be raised by £27 to £300, despite objections on the grounds of current poor levels of service. Some respondents also mentioned that the digitisation of probate applications and streamlining of the administration process should have resulted in significant reductions to its service cost. Nevertheless, the ministry replied that probate fees are only payable for estates with a value above £5,000 and are recoverable from the estate once probate has

been granted. It noted that it had incurred costs in taking action to improve performance and reduce the causes of delays, and was recruiting and training more staff to increase the number of grants being processed.

Please see [here](#) for the full list of fee changes.

Increases to the 172 fees will be effected by a negative statutory instrument which will come into force in May 2024. The changes will include amendment to fees in the following Fee Orders...

- The Enrolment of Deeds (Fees) Regulations 1994
- The Non-Contentious Probate Fees Order 2004
- The Court of Protection Fees Order 2007
- Magistrates' Courts Fees Order 2008
- Family Proceedings Fees Order 2008
- Civil Proceedings Fees Order 2008
- The Upper Tribunal (Lands Chamber) Fees Order 2009
- The First-tier Tribunal (Gambling) Fees Order 2010
- The Upper Tribunal (Immigration and Asylum Chamber) (Judicial Review) (England and Wales) Fees Order 2011
- The First-tier Tribunal (Property Chamber) Fees Order 2013

In addition, the Government will make routine updates to fees to account for changes in cost and CPI every two years, with the next review taking place in 2025/26, to prepare for implementation in 2026.

This approach will align with other parts of the public sector and ensure that fees reflect the costs of providing Court and Tribunal services.

It added that, as it will be routine, it will not hold a public consultation each time fees are updated in this way but will continue to engage with the Lord Chancellor's statutory consultees in a timely manner.

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