



To: Surrogate Rules Advisory Committee
From: Jennifer Flynn
Re: Fees Charged in Estate Administration Matters Survey Results
Date: January 25, 2016

On January 7, 2016, LESA launched a survey requesting feedback from Alberta lawyers on fees charged in estate administration matters. LESA provided notice about this survey through an e-letter sent out January 7 and a blog entry posted January 11. The survey closed on January 22; 120 people responded. A copy of the survey is attached, along with a summary of the results.

Executive Summary

The majority of those who responded to the survey always or frequently require a written retainer or engagement letter (>70%) and review with their client what services their fee will include (>85%). Nearly half routinely include a copy of Part 2 Schedule 1 of the Surrogate Rules when rendering accounts. Virtually all report considering a range of factors when setting fees for estate administration matters (including the factors set out in the Surrogate Rules).

Of those who responded, virtually all report being aware of the Suggested Fee Guideline (96%). The majority report that they find the guideline to be useful (74%) and most would recommend the guideline to a colleague (69%). Less than 8% disagreed with the statement that the Suggested Fee Guideline was useful; only 12% reported that they would not recommend it to a colleague.

Slightly more than 60% report always or frequently using the guideline; nearly 30% report using it either sometimes or rarely; approximately 9% report never using it at all. Those who use the Suggested Fee Guideline appear to give some consideration to whether the guideline is appropriate in the given circumstances: only 8% report that they never reduce their fee from the Suggested Fee Guideline and only 23% report that they never increase it from the Suggested Fee Guideline.

The main criticism of the Suggested Fee Guideline appears to be that it does not adequately address complexity. Respondents report that application of the Suggested Fee Guideline can lead to overcharging for high-value (but straightforward) estates. Approximately 30% of those who responded reported frequently reducing their fees from the guideline amount (including, but not limited to, cases involving simple, high-value estates).

Conversely, survey results indicate that low-value estates can be complex. Application of the Suggested Fee Guideline in these cases may result in lawyers not receiving adequate compensation for the work that has been done. Approximately 11% of those who responded frequently increase their fees from the suggested amount (including, but not limited to, cases involving more complex, albeit low-value, estates).

Estate Administration Retainers

Respondents were asked general questions about their practices with respect to estate file retainers. Of the 120 respondents, 119 responded to the questions focused on estate administration retainers. Of those who responded:

- More than 70% always or frequently require a written retainer or engagement letter (only 5% never do);
- More than 85% always or frequently review with their client what services their fee will include (fewer than 3% never do);
- More than 70% always or frequently review with their client what services their fee will NOT include (fewer than 3% never do);
- When rendering accounts, nearly half always or frequently provide a copy of Part 2 Schedule 1 of the Surrogate Rules (24% never do); and
- Nearly 90% report that their accounts are rarely or never referred for review (of those who reported having an account referred for review, 95% reported rarely or never having it taxed down by more than 50%).

Estate Administration Fees

Respondents were asked questions about the factors they consider in setting fees. The factors included were those identified in the Surrogate Rules. Of the 120 survey respondents, 105 provided a response to the estate administration fee questions.

More than 70% of those who responded reported always or frequently considering the following:

- skill, labour, responsibility and specialized knowledge required (80%);
- time expended (78%);
- complexity of the work, including whether difficult or novel questions were raised (77%);
- the value of the estate (77%);
- the number and importance of documents prepared or perused (73%);
- their experience in estate administration (70%);

More than 60% of those who responded reported always or frequently considering the following:

- the amount of work performed in connection with jointly held or designated assets (66%);
- the results obtained (64%); and
- whether or not they had an agreement and whether the agreement was reasonable (62%).

Only 40% always or frequently consider whether they performed services away from their usual place of business or in unusual circumstances.

Respondents had the option to specify other factors they consider in setting fees. Their responses included the following:

- whether a lawyer prepared the will or whether it was a holograph/stationers' form;
- the number of minors and other potential family maintenance and support claimants;
- foreign assets and taxes;
- the relationship with the client and whether the lawyer had done other work for them;
- whether it is a "rush" matter;
- the "tariff", what the OPT, bank or a private trustee might charge for certain tasks, and
- the fee guideline released a number of years ago.

In the general comments section for the survey, it was also noted that various issues (e.g. the number of beneficiaries, tax issues, debt and issues with creditors, unrepresented adult beneficiaries, family member claims, blended family issues, rush timelines, and other unusual circumstances) can complicate a matter significantly and should be considered.

Suggested Fees Guidelines

Respondents were asked questions specific to the Surrogate Fee Guideline. Of the 120 survey respondents, 101 answered these questions. Of those who responded:

- 96% agreed or strongly agreed that they were aware of the guideline;
- 74% agreed or strongly agreed that they find the guideline to be useful (8% disagreed or strongly disagreed); and
- 69% agreed or strongly agreed that they would recommend the guideline to a colleague (12% disagreed or strongly disagreed).
- 60% always or frequently use the guideline (18% rarely or never do);
- 30% always or frequently reduce their fee from the guideline (21% rarely or never do);
- 11% always or frequently increase their fee from the guideline (53% rarely or never do); and
- 21% always or frequently discuss the appropriateness of applying the guideline with other lawyers (37% rarely or never do).

Respondent Demographics

Of the 120 people who responded to the survey, 100 provided demographic information. Generally, respondents represented a broad cross-section. Geographic representation (Calgary, Edmonton, and those outside Calgary and Edmonton) was excellent. There was some variety of those who practice predominantly in wills and estates and those who do not (with heavier weighting towards those who do not). Respondents were skewed towards those who have practiced for a considerable length of time; survey results may not accurately reflect the views and practices of more junior lawyers.

Of the 100 people who replied to the demographic questions:

- 31% of respondents were from Calgary; 30% were from Edmonton; 39% were from outside of Calgary or Edmonton;
- 46% of respondents reported that wills and estates work accounts for less than one-quarter of their practice, 39% reported that it accounts for between one-quarter and three-quarters of their practice, and 15% reported that it accounts for more than three-quarters of their practice; and
- 59% of respondent reported practicing for more than 20 years, 34% reported practicing from 6 to 20 years, and 7% reported practicing for 5 or fewer years.

Open-ended Responses

Some of following themes appear to emerge from the comments:

- The Suggested Fee Guideline, while not appropriate for every situation, is a useful guide for what constitutes a fair fee. While each file requires individual analysis, the Suggested Fee Guideline is helpful tool.
- The value of the estate is not the only factor (and is frequently not the most significant factor). Since the Suggested Fee Guideline was set, estate matters have become more complex. The Suggested Fee Guideline does not adequately address estate complexity.
- The Suggested Fee Guideline should be updated, with consideration given to increasing the fees charged for smaller estates (which are increasingly complex) and including factors other than estate size.
- Some high-value assets are easily administered; application of the Suggested Fee Guideline when dealing with high-value (but straightforward) assets would result in fees that would be unreasonably high. Some low-value estates, on the other hand, can require a considerable outlay of time and energy and can be more “troublesome” than high-value estates.
- Some respondents report reducing their fees (and, in some cases, increasing them) to bring them more in line with their hourly rate when matters are more straightforward (or more complex) than the Suggested Fee Guideline provides.

Educational Value of the Survey

While the primary purpose of the survey was to gather information, a secondary purpose was to educate. The questions were designed to encourage lawyers to think about their practices when charging fees, to educate lawyers about the range of factors to be considered, and to reinforce that the Suggested Fee Guideline is a guideline and not a tariff. It was also designed to prompt some critical self-reflection. The comments to the open-ended questions suggested that this end was achieved.

JF

Fees Charged in Estate Administration

1. Estate Administration Retainers

For guidance on estate administration fees, it is helpful to understand more about the current practices of Alberta lawyers. Please assist us by answering the following questions.

These questions are all asked in the context of your estate files.

1. Using the response scale, please select the descriptor that best matches the *frequency* of your experience with the following.

	Always	Frequently	Sometimes	Rarely	Never	N/A
I require a written retainer or engagement letter.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I review with my client what services my fees will include.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I review with my client what services my fees will <i>not</i> include.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
When rendering accounts, I provide a copy of Part 2 Schedule 1 of the Surrogate Rules.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
My accounts are referred for review by the review officer under the Alberta Rules of Court.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
When referred for review by a review officer, my fees are taxed down by more than 50%.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Fees Charged in Estate Administration

2. Estate Administration Fees

Various factors are considered in determining the fees to charge for an estate file. Please assist us by answering the following questions about the factors you consider.

1. Using the response scale, please select the descriptor that best matches the *frequency* with which you consider the following factors:

	Always	Frequently	Sometimes	Rarely	Never	N/A
complexity of the work, including whether difficult or novel questions were raised	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
skill, labour, responsibility and specialized knowledge required	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
my experience in estate administration	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
number and importance of documents prepared or perused	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
whether I performed services away from my usual place of business or in unusual circumstances	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
value of the estate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
amount of work performed in connection with jointly held or designated assets	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
results obtained	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
time expended	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
whether or not we had an agreement and whether the agreement is reasonable	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Other (please specify)

Fees Charged in Estate Administration

3. Suggested Fees Guidelines

In 1995, the Surrogate Rules Committee issued Suggested Fees Guidelines for Lawyers and Personal Representatives. These guidelines were published for guidance only and not as a tariff.

The following questions relate to the Suggested Fee Guidelines - Lawyers ("Suggested Fee Guideline"). For core legal services, the suggested fee is \$2,250 + 1% (on estates with a gross value over \$150,000).

1. Using the response scale, please select the descriptor that best matches your experience.

	Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	N/A
I am aware of the Suggested Fee Guideline.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I find the Suggested Fee Guideline to be useful.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I would recommend the Suggested Fee Guideline to a colleague.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

2. Using the response scale, please select the descriptor that best matches the *frequency* of your experience with the following.

	Always	Frequently	Sometimes	Rarely	Never	N/A
I use the Suggested Fee Guideline.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I reduce my fees from the Suggested Fee Guideline.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I increase my fees from the Suggested Fee Guideline.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I discuss the appropriateness of applying the Suggested Fee Guideline with other lawyers.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If you vary your fees from the Suggested Fee Guideline, why?

Fees Charged in Estate Administration

4. Please Tell Us About Yourself

To help us better understand variations in practice, please answer the following questions.

1. Approximately what percentage of your practice is in the area of Wills and Estates?

- Less than 25% Between 50% and 75%
- Between 25% and 50% More than 75%

2. How long have you been practicing law?

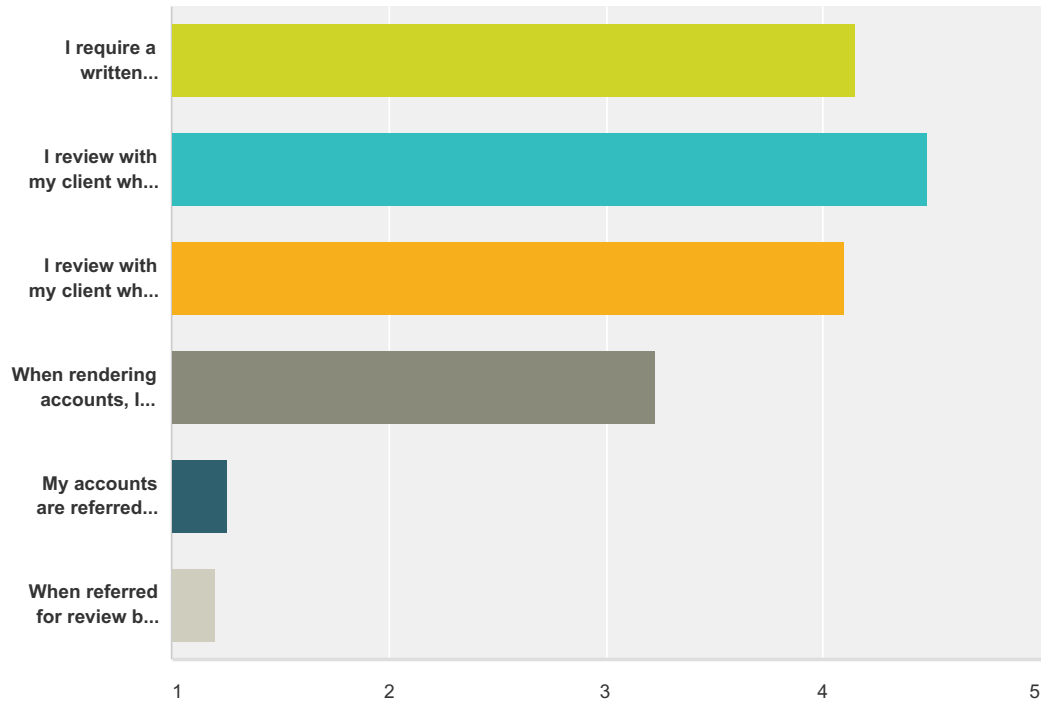
3. Where do you primarily practice law?

4. Do you have any other comments you would like to share?

Fees Charged in Estate Administration

Q1 Using the response scale, please select the descriptor that best matches the frequency of your experience with the following.

Answered: 119 Skipped: 1

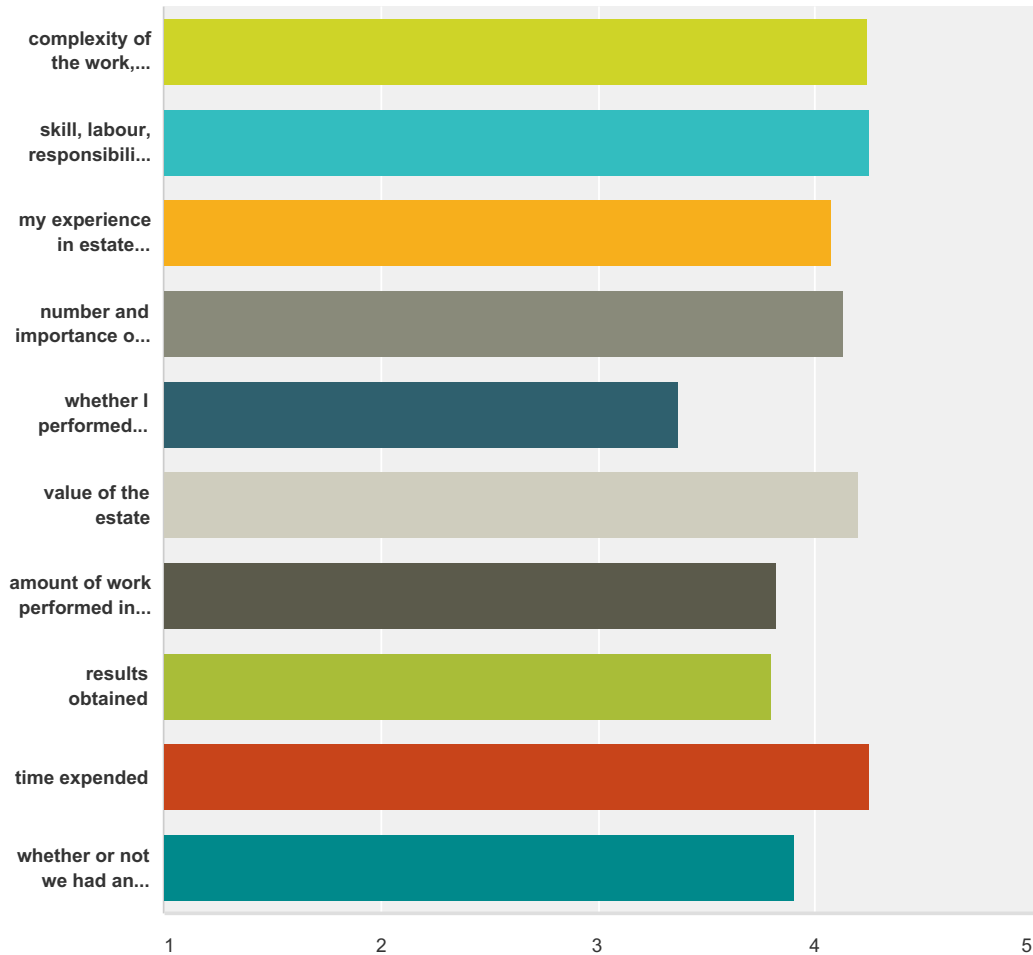


	Always	Frequently	Sometimes	Rarely	Never	N/A	Total	Weighted Average
I require a written retainer or engagement letter.	59.66% 71	10.92% 13	13.45% 16	8.40% 10	5.04% 6	2.52% 3	119	4.15
I review with my client what services my fees will include.	64.71% 77	21.85% 26	6.72% 8	1.68% 2	2.52% 3	2.52% 3	119	4.48
I review with my client what services my fees will not include.	45.38% 54	25.21% 30	20.17% 24	5.04% 6	1.68% 2	2.52% 3	119	4.10
When rendering accounts, I provide a copy of Part 2 Schedule 1 of the Surrogate Rules.	35.04% 41	11.97% 14	9.40% 11	12.82% 15	23.93% 28	6.84% 8	117	3.23
My accounts are referred for review by the review officer under the Alberta Rules of Court.	0.00% 0	0.85% 1	2.54% 3	16.95% 20	72.88% 86	6.78% 8	118	1.26
When referred for review by a review officer, my fees are taxed down by more than 50%.	0.00% 0	0.00% 0	1.71% 2	4.27% 5	31.62% 37	62.39% 73	117	1.20

Fees Charged in Estate Administration

Q2 Using the response scale, please select the descriptor that best matches the frequency with which you consider the following factors:

Answered: 105 Skipped: 15



	Always	Frequently	Sometimes	Rarely	Never	N/A	Total	Weighted Average
complexity of the work, including whether difficult or novel questions were raised	53.33% 56	23.81% 25	15.24% 16	2.86% 3	2.86% 3	1.90% 2	105	4.24
skill, labour, responsibility and specialized knowledge required	50.00% 52	29.81% 31	13.46% 14	2.88% 3	1.92% 2	1.92% 2	104	4.25
my experience in estate administration	43.69% 45	27.18% 28	21.36% 22	4.85% 5	1.94% 2	0.97% 1	103	4.07
number and importance of documents prepared or perused	47.12% 49	25.96% 27	20.19% 21	2.88% 3	2.88% 3	0.96% 1	104	4.13
whether I performed services away from my usual place of business or in unusual circumstances	25.96% 27	14.42% 15	31.73% 33	15.38% 16	7.69% 8	4.81% 5	104	3.37
value of the estate	54.37% 56	22.33% 23	9.71% 10	9.71% 10	1.94% 2	1.94% 2	103	4.20

Fees Charged in Estate Administration

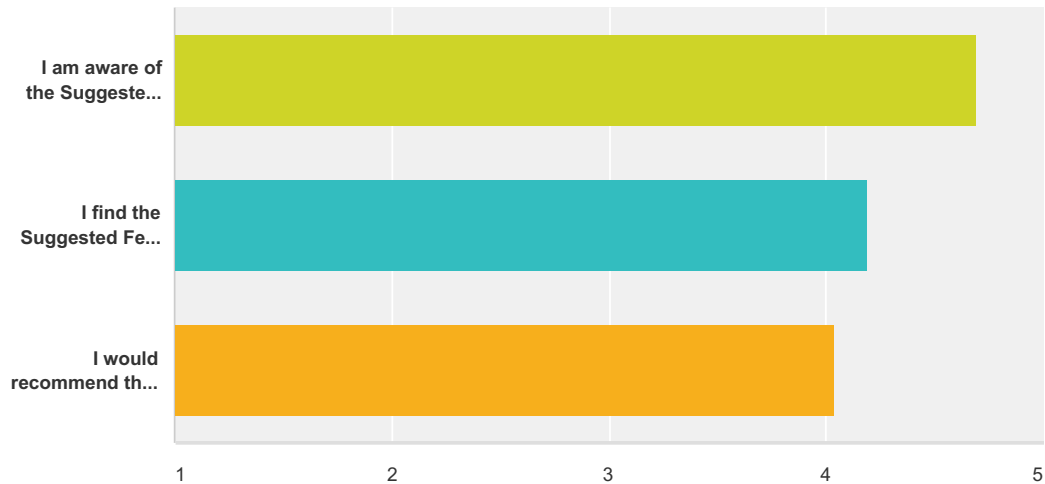
amount of work performed in connection with jointly held or designated assets	27.88% 29	38.46% 40	20.19% 21	9.62% 10	1.92% 2	1.92% 2	104	3.82
results obtained	32.69% 34	31.73% 33	17.31% 18	8.65% 9	5.77% 6	3.85% 4	104	3.80
time expended	52.94% 54	25.49% 26	12.75% 13	4.90% 5	1.96% 2	1.96% 2	102	4.25
whether or not we had an agreement and whether the agreement is reasonable	40.78% 42	21.36% 22	17.48% 18	3.88% 4	7.77% 8	8.74% 9	103	3.91

#	Other (please specify)	Date
1	Whether a formal lawyer prepared will or holograph/stationers' form; number minors and other potential FM&S claimants; foreign assets and taxes;	1/11/2016 1:12 PM
2	Always do an Engagement Letter and thoroughly discuss fees. Provide applicable sections of SURrogate Court Rules and Schedules with Engagement Letter. If agree to be executor, personal representative, discuss fees with deceased before he/she dies. Will not act as executor until fees are agreed.	1/10/2016 2:10 PM
3	We always have an agreement, but sometimes it is verbal. I had a practice of supplying the taxation notice but for a while hadn't located the updated rules and changes in staff meant it fell by the wayside. We try to include it now. A quick check shows it missing from some and included in others. Will ensure better compliance hereafter	1/8/2016 12:50 PM
4	the "tarriff", what the OPT, bank or a private trustee might charge for certain tasks.	1/7/2016 6:11 PM
5	We usually charge according to the fee guideline released a number of years ago.	1/7/2016 4:48 PM
6	I always have an agreement by way of retainer agreement	1/7/2016 2:50 PM
7	The amount of court documents to prepare never vary as both testate and non-testate estates require almost the same number of documents	1/7/2016 2:16 PM
8	Myrelationship with the client and whether or not I have done other work for them	1/7/2016 2:06 PM
9	If it is a rush matter, this will play a role in the fees	1/7/2016 2:05 PM

Fees Charged in Estate Administration

Q3 Using the response scale, please select the descriptor that best matches your experience.

Answered: 101 Skipped: 19

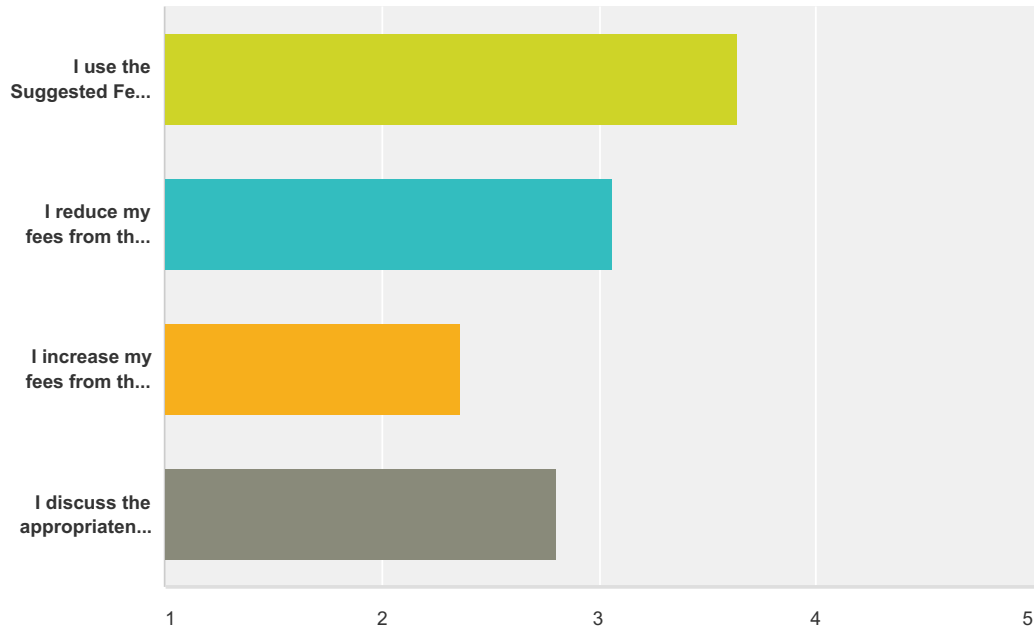


	Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	N/A	Total	Weighted Average
I am aware of the Suggested Fee Guideline.	73.27% 74	22.77% 23	1.98% 2	0.00% 0	0.99% 1	0.99% 1	101	4.69
I find the Suggested Fee Guideline to be useful.	52.48% 53	21.78% 22	15.84% 16	5.94% 6	1.98% 2	1.98% 2	101	4.19
I would recommend the Suggested Fee Guideline to a colleague.	48.00% 48	21.00% 21	17.00% 17	9.00% 9	3.00% 3	2.00% 2	100	4.04

Fees Charged in Estate Administration

Q4 Using the response scale, please select the descriptor that best matches the frequency of your experience with the following.

Answered: 101 Skipped: 19



	Always	Frequently	Sometimes	Rarely	Never	N/A	Total	Weighted Average
I use the Suggested Fee Guideline.	29.70% 30	30.69% 31	20.79% 21	8.91% 9	8.91% 9	0.99% 1	101	3.64
I reduce my fees from the Suggested Fee Guideline.	4.95% 5	24.75% 25	45.54% 46	12.87% 13	7.92% 8	3.96% 4	101	3.06
I increase my fees from the Suggested Fee Guideline.	3.03% 3	8.08% 8	32.32% 32	29.29% 29	23.23% 23	4.04% 4	99	2.36
I discuss the appropriateness of applying the Suggested Fee Guideline with other lawyers.	6.93% 7	13.86% 14	37.62% 38	26.73% 27	9.90% 10	4.95% 5	101	2.80

#	If you vary your fees from the Suggested Fee Guideline, why?	Date
1	Complexity When there is extra work required.	1/22/2016 9:09 AM
2	Core/non-core work Non core work	1/21/2016 3:05 PM
3	Complexity They do not take in the complexity of the estate. They are much to high if assets are simple investments.	1/16/2016 5:33 PM
4	Complexity Even low value estates require a lot of time, effort and energy. They can be more troublesome than high value estates.	1/14/2016 11:40 AM
5	Complexity Guideline is too high for many estates over, say, \$1 million as \$12,250 would likely exceed actual time spent but a significant amount.	1/12/2016 11:48 AM
6	Hourly I use my hourly rate.	1/12/2016 10:40 AM
7	Client/ability to pay Most people are very concerned about the expense of Probate applications	1/12/2016 10:20 AM

Fees Charged in Estate Administration

8	Complexity Time To take into account complexity of estate and time involved	1/12/2016 9:08 AM
9	Complexity Core/non-core work Hourly Time Unusual application or complex estate may not fit within the guideline in terms of appropriate fee. We often split our bill into two accounts one for core - being the Suggested Fee Guideline and one for 'non-core' being time.	1/12/2016 8:27 AM
10	Out-dated Because the suggested fee have been set 20 years ago.	1/11/2016 9:36 PM
11	Complexity Out-dated The Guideline is badly out-of-date. Since it was introduced even straightforward matters have become more complicated.	1/11/2016 1:58 PM
12	Client/ability to pay Complexity Hourly Discount by industry convention for corporate trustees who provide detailed instructions requiring less time to complete core work; discount if estate gross asset value is over \$1 million (which is actually following the letter of the Suggested Fee Guideline), when recorded time is substantially less than Suggested Fee Guideline; still follow Suggested Fee Guideline small estate 0.5% value to give a pro bono break in fees to small yet simple estates; small but complicated estates billing on time basis is more appropriate;	1/11/2016 1:22 PM
13	Complexity Core/non-core work Complexity of the file. Non core legal work done.	1/11/2016 1:08 PM
14	Complexity If an estate is very simple and has only a large amount of money held in bank accounts, I do not think it is fair to charge the 1%. So I will reduce or eliminate that part of the fee, keeping the base amount of \$2,250	1/10/2016 5:08 PM
15	Complexity For smaller estates the base fee is \$3,000 not \$2250. The amount of work involved with putting together an accurate Probate Application for a small estate takes more time than \$2250.	1/10/2016 2:12 PM
16	Complexity Time because the work was either much more straightforward, or much more difficult and/or time consuming.	1/8/2016 2:58 PM
17	Complexity Hourly The fee guideline deals with risk, not complexity or work required. these are more important factors. Some estates the required information is supplied. Some estates require a lot of detective work before an application can be filed. My partner used a flat fee so I agreed to follow for a while, but expect to be moving to the Suggested Fees Guidelines. However we often did not simply follow the flat rate. Sometimes it was higher or lower depending on the size of the estate, and the complexity. Fees are hourly after probate is obtained, but often not charged if the hours do not exceed the probate fees if it merely collecting and reporting. When dealing with distribution and beneficiaries additional fees may be charged. Some estates are simply too complicated to consider the guideline, which is often discerned at the initial interview.	1/8/2016 12:50 PM
18	Complexity Hourly Often applying the Suggested Fee Guideline would result in a fee that I would consider to be far too high based on my time spent on a particular estate file. I find it difficult to justify billing a file far above my regular hourly rate.	1/8/2016 12:47 PM
19	Hourly Time Results in fees too high for the hours of work involved.	1/8/2016 12:27 PM
20	Complexity Nature of the work simple or complex.	1/8/2016 11:01 AM
21	Client/ability to pay Complexity Client circumstances; simplicity of estate	1/8/2016 9:53 AM
22	Complexity See previous question and answer. Fees should reflect complexity and time and result. Large simple estates do not attract larger fees. Small complicated estates may require larger fees.	1/8/2016 9:28 AM
23	Client/ability to pay Complexity If an estate is very easy or if the estate is small and fees could cause a hardship to the survivor(s).	1/8/2016 8:42 AM
24	Complexity Hourly I consider the Fee Guideline when deciding whether and what to charge on an estate. Once I assess the file, I decide whether to charge flat fee, hourly, percentage or a combination of these.	1/7/2016 6:14 PM
25	Complexity For the very reasons we just reviewed. Usually I will try to anticipate what the work on the estate will entail and adjust the fee to reflect the work required, and then set that fee in the retainer agreement.	1/7/2016 6:10 PM
26	Complexity Hourly I often reduce the fee from the guideline because the guideline fee may be significantly higher than if I had charged my hourly rate. This is especially true if the estate has one executor who is also the sole beneficiary. While the size of the estate is relevant with regard to the time spent, I find that the number of beneficiaries and whether or not it is a blended family is more significant when calculating my time and determining my fee.	1/7/2016 5:21 PM
27	Client/ability to pay Complexity For small estates or when people are in difficult financial circumstances we reduce fees. I have done some for the cost of the court filing fee only. I have decreased from guideline on some large estates that were very easy (e.g. all cash deposits and a few adult beneficiaries). I rarely increase the fee above the guideline as the guideline is fairly adequate for most estates I think.	1/7/2016 4:52 PM
28	Complexity Value of the estate is only one factor - and often is not the most significant factor.	1/7/2016 4:46 PM

Fees Charged in Estate Administration

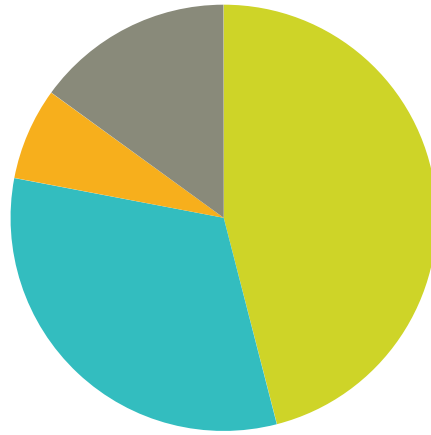
29	Complexity Time I bill on a time and difficulty basis, otherwise and especially if there is fighting among beneficiaries or those that believe themselves to be beneficiaries, I believe that I will be grossly underpaid.	1/7/2016 4:44 PM
30	Complexity I will reduce my fees from the suggested guideline if the administration was very simple due to the nature of the assets, single beneficiary, minimal tax issues, etc. In cases such as these the suggested tariff can be difficult to justify.	1/7/2016 4:40 PM
31	Hourly Time I base my fees on the time it takes to complete the matter.	1/7/2016 4:33 PM
32	Complexity Time The guideline only considers the gross value and not the underlying assets. Some high value assets are easily administered. I use it as a guide, but often find it over values the fees when considering the time and effort expended.	1/7/2016 4:07 PM
33	The asset value far exceeds the value of the amount of work performed.	1/7/2016 3:56 PM
34	Complexity Even if the estate is very large, if the work was straight-forward, I reduce my fees to reflect that.	1/7/2016 3:22 PM
35	Didn't know it existed	1/7/2016 3:15 PM
36	Complexity Time Generally when the value of a larger estate would result in fees in excess of what I feel are reasonable based on my time ,effort and the complexity of the file.	1/7/2016 3:04 PM
37	Complexity Hourly Time Alot of times the Estates value and % far exceeds the time and work put in so feeds are reduced. Some times the work and time put in far exceeds the Estates value and so fees are increased accordingly. Estate Value does not always dictate the work and time involved so adjustments must be made.	1/7/2016 3:02 PM
38	I use the suggested fee as a guideline.	1/7/2016 3:02 PM
39	Hourly I have found that using the Suggested Fee Guidelines is unfair. The estates will many assets subsidize the time I take on the small estates. As a result, I discuss the option of the Suggested Fee Guideline with each Personal Representative, but I also discuss the option of paying our office based on our hourly fees. They have always picked the hourly rate option as the more work our office does on the file the more we get paid, regardless of the value of the estate. I do not understand when our office should get paid more money just because the deceased had a larger estate when they passed away. I will continue with my process.	1/7/2016 2:56 PM
40	Complexity For relatively simple probate applications with few assets, I cannot justify such a high fee. I invariably reduce my fees from the Fee Guideline	1/7/2016 2:52 PM
41	Complexity While the Suggested Fee Guideline is a helpful tool, each file requires individual analysis as to the fees I charge. The complexity of work or time involved may dictate additional fees in certain circumstances. On the other hand, in simply or easily solved matters, the Fee Guideline may in fact create fees that are more than I would feel comfortable charging in the circumstances. The old adage that billing is usually more of an art than a science generally holds true.	1/7/2016 2:50 PM
42	Hourly Time I generally bill on the basis of time expended in completing the work done.	1/7/2016 2:47 PM
43	Complexity I use the Fee Guideline as one aspect to be considered in the determining the account; it is a good guideline but if the matter was more or less complex than usual, required more or less work than usual then I depart from the guidelines (increase or decrease).	1/7/2016 2:38 PM
44	Complexity Core/non-core work Hourly My experience with estate files is normally just to obtain the grant. I charge a base fee of \$2500 for this service because the paperwork is the same whether it's a \$100,000 estate or a \$5,000,000 estate. Anything over and above that, I charge my normal hourly rate. Estate fees are quite often seen as gouging by the clients and as I have not been able to justify why I am entitled to a percentage of their mother's estate, I choose not to take that percentage.	1/7/2016 2:23 PM
45	Hourly I calculate the fee according to the guidelines and compare it to the time spent fee. If there is a large disparity, I adjust the guideline fee down.	1/7/2016 2:19 PM
46	Complexity Complexity and amount of work varies.	1/7/2016 2:17 PM
47	Complexity Hourly If the estate has a negative or negligible value, I will either negotiate a set fee or bill hourly. That would be the only scenario that I would charge more than the suggested guideline. I sometimes agree to varying from the guideline if the estate is especially valuable and easily administered, but that decision is almost always made at the outset, set out in the engagement letter/agreement, and explained to the clients. Thereby avoiding serious misunderstanding or review issues at the end of the day.	1/7/2016 2:13 PM
48	Complexity Time time; difficulty;	1/7/2016 2:13 PM
49	Complexity For very simple straightforward estates with nominal assets and holdings requiring attention I will reduce fee quoted. For very complicated estate with lower values of assets I may advise client of an increase to account for time required.	1/7/2016 2:12 PM

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50	Complexity Out-dated It's out dated. More forms required now.	1/7/2016 2:11 PM
51	Complexity If there is an expectation for a reduced timeline. If there are significant assets to be dealt with that do not form part of the estate. If there are debt and creditor issues. If there are difficult beneficiaries. If the personal representative requires a lot of handholding. If there are unusual issues to deal with. If family member claims are being made. If there is an represented adult beneficiary with no appointed trustee.	1/7/2016 2:10 PM
52	Hourly Just use my hourly rate.	1/7/2016 2:09 PM
53	In some circumstances, the fees are too high if billing in accordance with the Fee Guideline.	1/7/2016 2:08 PM
54	Complexity Only to reduce my invoice for simple estates with few beneficiaries and few assets, even if those assets have high value; I discount my services because it was straight froward and simple. I never vary from the guideline to increase my fees.	1/7/2016 2:03 PM
55	Client/ability to pay Complexity complexity or clients ability to pay	1/7/2016 2:02 PM
56	Hourly Often times I quote an hourly rate	1/7/2016 2:01 PM

Q5 Approximately what percentage of your practice is in the area of Wills and Estates?

Answered: 100 Skipped: 20

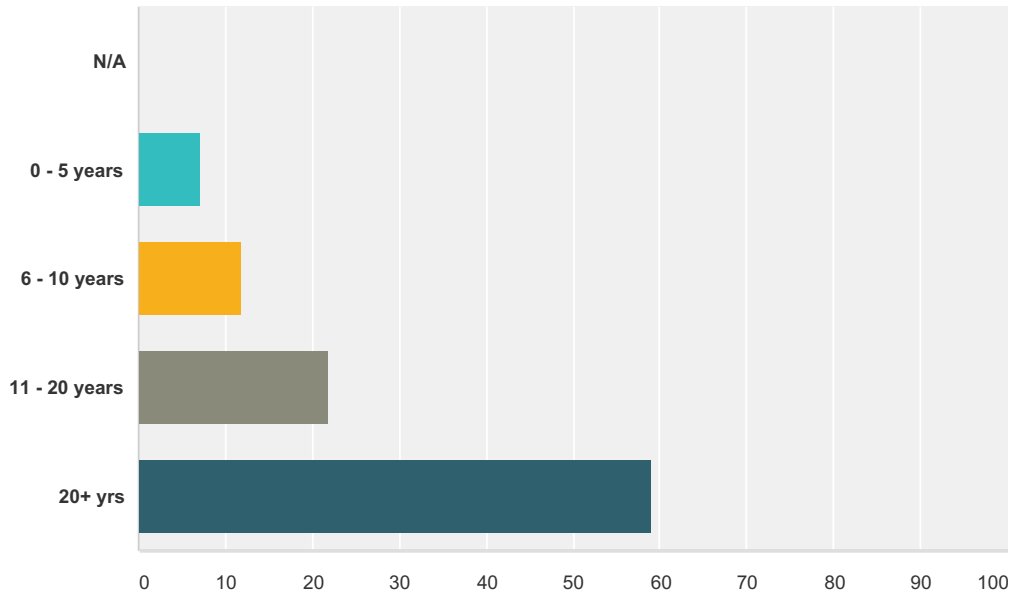


■ Less than 25% ■ Between 25% and 50% ■ Between 50% and 75% ■ More than 75%

Answer Choices	Responses	
Less than 25%	46.00%	46
Between 25% and 50%	32.00%	32
Between 50% and 75%	7.00%	7
More than 75%	15.00%	15
Total		100

Q6 How long have you been practicing law?

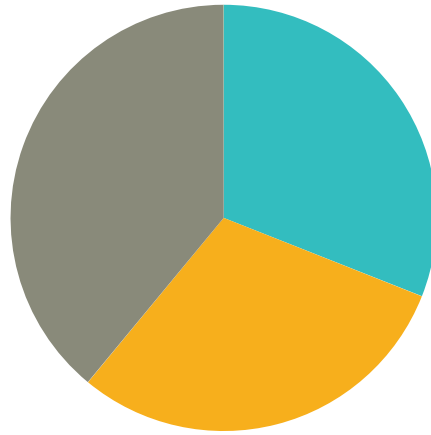
Answered: 100 Skipped: 20



Answer Choices	Responses	
N/A	0.00%	0
0 - 5 years	7.00%	7
6 - 10 years	12.00%	12
11 - 20 years	22.00%	22
20+ yrs	59.00%	59
Total		100

Q7 Where do you primarily practice law?

Answered: 100 Skipped: 20



■ N/A
 ■ Calgary
 ■ Edmonton
 ■ Outside of Calgary or Edmonton

Answer Choices	Responses	
N/A	0.00%	0
Calgary	31.00%	31
Edmonton	30.00%	30
Outside of Calgary or Edmonton	39.00%	39
Total		100

Fees Charged in Estate Administration

Q8 Do you have any other comments you would like to share?

Answered: 22 Skipped: 98

#	Responses	Date
1	These should be a mandatory minimum	1/22/2016 9:10 AM
2	I strongly suggest that the law be changed to make holograph Wills invalid like BC did and possibly other Provinces. People are not trained to do their own Wills and often alternate executors and/or beneficiaries are missed and bequests are made that are of nominal value which should not be in a Will and makes the probate process more complicated. Also, the fee schedule should be mandatory to avoid undercutting. The fee is minimal considering that some estates can be more complex and some beneficiaries can be difficult which usually can not be foreseen at the beginning of probate.	1/21/2016 4:29 PM
3	Would be nice if lawyers did not under value their service - estate work can be complex - and values of estates are increasing.	1/21/2016 3:07 PM
4	An updated guideline that was more commonly understood and used might make it easier to deal with clients and avoid arguments over fees.	1/12/2016 11:50 AM
5	There is downward pressure on legal fees in virtually every area. As fees for "simple" things that don't "require" a lawyer's help (and the government and courts continue to assist non-lawyers) the costs for those that require a lawyer will keep going up. Given the costs associated with being a member of the Law Society, I frequently consider whether I should give up my status as a member of the Law Society and simply become another paralegal offering legal document preparation services. Certainly the overhead and other requirements (e.g., continuing education responsibilities) would be significantly reduced if I were to do so.	1/12/2016 10:00 AM
6	I think the Suggested Fee Guideline for smaller estates should be increased.	1/12/2016 8:28 AM
7	Suggested Fee Guideline has provided a useful guide for the courts, clients, and lawyers of what is a fair fee; it was set after lawyers canvassed what was considered fair by review of court decisions in a number of jurisdictions; it remains useful and a court should only depart from it when their are compelling other factors to do so; needs updating to give base amount from 1980s and increase to current \$ value;	1/11/2016 1:26 PM
8	I believe the guideline fees need to be revised to reflect the amount of work done by lawyers	1/11/2016 1:09 PM
9	The % varies each year. Do you want us to calculate the % based on time expended or fees received?	1/10/2016 2:14 PM
10	With multiple relationships in an aging population, these estates are getting more and more complex. The guidelines may in fact be way too low for your average complicated estate. They are a useful factor however. Even if we have a set fee, it is not appropriate to use it in every situation.	1/8/2016 12:55 PM
11	My retainer letter contains the suggested fee guideline. In the past 3 years I believe I have billed as per the guideline once and once above the guideline. I may compare my fee to the suggested fee guideline for my reference only.	1/8/2016 12:27 PM
12	No	1/8/2016 11:02 AM
13	I believe the guideline needs to be updated. At a minimum, the minimum fee needs to be increased. Also, factors other than estate size should be considered.	1/7/2016 5:22 PM
14	I think the fee guideline is pretty reasonable. I have never had a client complain about it as it is only around 1% of the estate. Even with disbursements and GST for core services, total legal costs rarely exceed 2% of the value of the estate. This is often far less than percentages charged by auctioneers, realtors etc. that the Personal Representative must also deal with so, as indicated, I have never had a complaint or an invoice taxed by the Review Officer	1/7/2016 4:55 PM
15	I have always believed that to follow the Suggested Fee Guideline is a dis-service to both the lawyer and our clients. The larger estates get charged an over-inflated fee, while on a smaller estate, lawyers don't get paid what our time is worth. The hourly rate payment method has always been fairer to all parties. The lawyer gets paid for the time they spend on the file, no matter the size.	1/7/2016 2:59 PM
16	Yes, Virginia, there are some good lawyers outside of Calgary or Edmonton!	1/7/2016 2:53 PM
17	Again fees for the services we provide must be matched to the value of the services we provide. In doing that I have seldom had a client question fees or feel that they did not receive value.	1/7/2016 2:52 PM
18	The guideline should also apply to EPA attorneys. The base fee for core legal services should be revised up. Many lawyers have never heard of the guidelines. Many of those who have treat them as a tariff rather than a guideline.	1/7/2016 2:22 PM

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19	I think the recommended fee structure needs to be updated as it often out of date with time requirements.	1/7/2016 2:13 PM
20	There should be a greater base amount as small estates can have just as many, or more, issues, to deal with as large estates do.	1/7/2016 2:11 PM
21	Enjoy your day. :)	1/7/2016 2:03 PM
22	I have executors follow the recommended guidelines for executors fees	1/7/2016 2:02 PM