



Death to Distribution Webinar Summary

Sarah Husbands (Digilegal Lawyer)

Matthew Lagden (CEO - ILM)

**Improving understanding and communication between legacy managers,
law firms and executors**

Pre-probate - what's involved in getting a case ready - what causes delays

Notifications - when and from whom

Best practice for communications and contact

Distribution of estate - common reasons for delay and retention

Fee scales - what to expect and what to ask the solicitors

Case scenarios - best and worst probate scenario from a legal and charity perspective

Guidance for 'thank you's'

The full webinar video can be viewed here - <https://youtu.be/IWVgInNuXyU>



What is needed to apply for Probate

Before applying for Probate, several steps need to take place by the executors or their lawyers, including:

- Registering the death
- Arranging the funeral
- Locating the original will (if there is one), property deeds and any other important financial documents
- Instructing solicitors
- Identifying assets and debts held by the deceased
- Calculating and paying any inheritance tax
- Preparing the probate application documents.



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What causes delays before applying for Probate

Some of the common causes for delay before applying for Probate include:

- Concerns about will validity
- Locating the original will
- Trouble identifying and valuing assets and debts
- Disagreements between executors and beneficiaries
- Difficulties in arranging to pay inheritance tax
- Time spent communicating with third parties
- Accessing financial information held electronically
- Probate Registry delays are at an all time high of 16 weeks+



Notifications – when and from whom

There are two routes that can be taken to receive a notification of a legacy. You'll either be informed by the executor or most likely be informed by Smee and Ford. Smee and Ford read every proven will in England and Wales. They identify those that have charitable gifts and send notifications of legacies to subscribing charities. They are very efficient and act as an effective check against fraud and non payment of legacies by executors – you can find out more about their notifications service here - [Legacy Notification Services | Smee & Ford \(smeeandford.com\)](https://www.smeeandford.com).

- In generally it takes 2 weeks to receive the notification from Smee and Ford from receipt of grant of probate
- All solicitors are aware of the Smee and Ford service and acts as a prompt for them to write to you
- Lay executors (private individuals) are not aware of the Smee and Ford service. ILM has been working with the Courts and Tribunal service and have agreement in principle to add this information onto the application form but they are unsure when this change will be implemented
- The Smee and Ford notification now includes the grant of probate and a copy of the will
- Enables you to have the opportunity to work out what kind of legacy it is and start to put a value to it
- Enables you to start to think about how you are going to communicate with executors



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Best practice for communications and contact

Best practice is to contact lay executors early on by telephone, if you have their contact details. If not, contact them by email and offer your contact details. Bear in mind they will be doing the work in the evenings and weekends and won't necessarily want to be contacted during working hours. Offer them support and build a rapport.

- GDPR only allows you to communication about details of the estate that you are administering
- Contact early, be clear and concise
- Have a rational for everything you are asking. Don't ask for anything you don't genuinely need:

Why am I asking for this?

Could I secure this information myself

Am I adding unnecessary work to the executor

Could I deal with/resolve this myself

- Consider if they are a lay executor or professional and that they are having to take time to deal with your query
- If multiple charities are named in the will appoint a single charity to act as a post box for all as this will save time. Act as group rather than individuals



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Common reasons for delaying distributing an estate and reasons for making a retention of funds

- Potential inheritance claims against the estate can delay distribution by 6+ months
- Difficulty selling or transferring property and other assets, or closing accounts
- Finding new assets or debts which the executors were unaware of
- Disagreements between executors and beneficiaries
- Missing beneficiaries
- Issues with a badly drafted will

Because of the increasing delays in administering an estate, many executors may choose to retain a sum of money to deal with any final matters which need to be paid for. This usually happens for the following reasons:

- Waiting for DWP or HMRC to confirm any final arrears of benefits or tax due to them
- Keeping money aside until a missing beneficiary has been found
- Waiting for a creditor to confirm a final amount due to them

Points to consider where you are facing delays as a beneficiary:

- Interim distributions are not always suggested by the solicitors. Remember that you can always request one
- If the gift left to you in a will is for a fixed amount, you are entitled to receive interest on this money if it is paid later than 12 months from the date of death
- Agree with the executors or solicitors that you will contact them for updates periodically, say, every 3 months

Fee Scales - What to expect and what to ask the solicitors

- There are two main charging methods used by solicitors - hourly rate and fixed fee
- Fees can increase, particularly if some of the issues discussed above arise
- Residuary beneficiaries have a legal right to a copy of the estate accounts
- Remember that you can ask for copies of invoices, time recording sheets, and T&Cs - you may not always receive them



Tips to help you build a better relationship with solicitors in probate cases

- Make sure that your charity commission website details are up-to-date. Include an e-mail address where possible
- Ask the solicitors which financial year they expect to pay the legacy to you
- Correspond with solicitors by e-mail or telephone rather than by post
- Agree how often you will update each other throughout the matter
- Personalise and tailor any letters to the solicitors. A personalised letter of thanks is much more likely to be passed on to the family



Guidance and Thank you's

The ILM has recently issued guidance on GDPR. Please see this link to the GDPR factsheet - <https://legacymanagement.org.uk/wp-content/uploads/GDPR-and-Legacy-Admin-Enews.png>. In summary it covers communication about the payment of your gift. It does not cover general communication about the charity. No assumptions should be made that because the deceased supported your charity the executors or family members do as it's unlikely that they do. Most view it as something they are doing to honour their family members.

Average timetable for payments:

Average time for residuary legacies up from 36 months to 42-46 months

Average time for pecuniary legacies up from around 13 months to 26 months

Letters of thanks:

Be aware that solicitors may not pass on your letter of thanks if it is generic. Best practice is to tailor your correspondence, explain what the legacy could be used for, for example:

Mrs/Mr XXX was a lifelong supporter of our charity. Over the year she/he has done X, Y Z for us. We are incredibly grateful and her/his gift of £XXX will be used to.....