

Good Practice Guidance

Working with solicitors

Key Principles: Sensitivity, Transparency, Collaboration

It's important for us to build and maintain a good working relationship with solicitors acting as or for executors in an estate administration. Relationships with solicitors may span years and regular contact can maintain the good working relationship.

Applying the Principles of Sensitivity, Transparency and Collaboration can help encourage a free and open exchange of information and documentation in a timely manner. This involves being mindful of what solicitors may need, understanding that they are sometimes reliant on third parties (such as HMRC), and recognising that some may not be probate or executry experts. Solicitors are busy professionals too and may need time to reply.

Things to think about

- **Transparency and timeliness in requesting information**

When working with solicitors, we may need timely updates on the progress of legacies. In order to manage expectations and time for the solicitor(s) involved, it's worth us thinking about what we need, when, and (in keeping with the Principle of Transparency) offering the reasons for requesting certain information as the administration of the estate progresses. If we can't answer the question 'why do we need this information?', then why ask for it?

We may also need to consider:

- the type of legacy and notifications required, as this will determine the level of information which a solicitor may provide. We may also need to consider how the initial contact has been made (see [Guidance Notes - Initial Communications after notifications of gifts](#))
- the solicitor's role: what is the status of the solicitor in this legacy?

All charities will be asking for information to support their entitlement to the legacy, of which a copy of the Will would be the most appropriate. Depending on the type of legacy, some solicitors may not supply the Will. If charities do not subscribe to a notification service, which gives details of the Will and legacy to the charity, they may obtain a copy of the Will from the Probate Registry online. In Scotland, charities may be able to obtain a copy of the Will from Registers of Scotland if it has been

registered in the Books of Council and Session. Alternatively, charities may be able to obtain a Will copy from the Scottish Courts if Confirmation has been granted.

We can also request information that will aid us in considering the progress of the administration of the estate. This may include valuations of properties and investment portfolios. Many charities request a schedule of assets and liabilities in an estate (residuary benefit) to estimate the benefit to the charity so they can better assess their future income (see [Guidance Notes - Income recognition and accruals](#)).

- **Sensitive tone of communications**

In working with solicitors, we also apply our Principles of Sensitivity. As outlined in [Guidance Notes - Initial communications after notifications of gifts](#), it's vital to be careful in the tone and substance of our communications. Firstly, a formal, but non-confrontation tone will help build and maintain good relationships with solicitors. We and our colleagues may work with both firms and individual solicitors with on multiple legacies in future, so it's key to make sure we engage positively. Secondly, communications to solicitors may be passed on to the deceased's family and friends.

- **Demonstrating value of Collaboration**

Charities working well together with solicitors can save costs to the estate by contributing to a quicker decision making process. In cases where we are working with a range of charities (see [Guidance Notes - Working with multiple charities](#)), we can help keep the process smooth by ensuring the solicitors have a single contact point. Likewise, we can make sure that any issues arising during the administration are discussed with partner charities, and a course of action or set of questions agreed before going back to the solicitors with requests or proposals.

- **Solicitor's costs**

It's worth remembering that even modest estates may require the same amount of work by solicitors to administer. As such, costs may be markedly higher in percentage terms for those estates. We may wish to ask for a detailed breakdown of the solicitors' costs if the legal costs appear high, and can seek advice and experience on fees from other ILM members.

Further reading and useful links

- See [ILM Members Toolkit](#)
- [HMRC website](#)
- [Charity Commission \(England and Wales\) website](#)
- [OSCR – Scottish Charity Regulator website](#)
- [Probate Registry website \(England and Wales\)](#)
- [Registers of Scotland – Copy Deeds](#)
- [Scottish Courts & Tribunals](#)
- [Charity Commission for Northern Ireland website](#)

- [Chancery Office \(Probate\) website \(Northern Ireland\)](#)

It may also be worthwhile to subscribe to solicitor law updates as well as Wills and probate services.