

ILM FACTSHEET

Residuary Case File documentation

Guidance for professional executors

This factsheet
has been
prepared by
ILM

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This factsheet is aimed at professional executors, and outlines the information our members need from you, and why they need it





What our members need from you

This factsheet is aimed at professional executors, and outlines the information our members need from you, and why they need it. We receive considerable feedback from professional executors that charities have slightly different information requirements, leading to duplication of effort and unnecessary costs. These requirements are often imposed on our members by their auditors, and we are working with our members and their auditors to streamline these requirements, to make the process more efficient for everyone.

There are two reasons why charities ask for information:

- To satisfy their auditors that they have received the full value due from the estate
- For charities that practice early recognition of income under the Statement of Recommended (Accounting) Practice (SORP) their auditors also need to know that the value they recognised on their balance sheet was correct or to make any necessary adjustments.

The SORP recommends that charities (especially larger charities with significant legacy income) recognise legacy income on the balance sheet at the earliest moment when it is possible to be certain on the probable value of the legacy. Many charities will now estimate the value of the legacy as soon as they have received the Grant of Probate and Will (using an aggregate figure for the administration expenses) and will then adjust the estimate as the administration progresses.

In addition, for many charities gifts in wills are a vital income stream and being able to estimate the likely value of each gift will enable them to commit to long term spending commitments such as multi-year research projects or capital projects.

Strict duties

We also emphasise to our members the strict duties that the various parties owe to each other (of course many parties go beyond this, but we are conscious that they do not have to) as this provides a starting point for the checklist:

- **Executors:** To distribute the estate in accordance with the will and to produce a full account for all residuary beneficiaries.
- **Charities:** To account for legacies in accordance with their interpretation of SORP and to provide evidence to support this accounting treatment. To sign the Executors Terms and Conditions when requested to, to provide a receipt and where appropriate an indemnity, to prove entitlement via valid identification, and to confirm bank details for payment.
- **Auditors:** To confirm that legacy income has been accounted for correctly, and that the amounts recognised or received are correct.



The checklist - Vital, Valuable and Dependent upon circumstances

Vital

These are the documents that all our members files must contain to satisfy the duties outlined above at their minimal level. Failure to hold these documents might result in the file being questioned by auditors.

Document	Best source	Notes
Will, Codicils and Grant of Probate	Smee and Ford or Probate Registry	
S119 Report when property is being appropriated and the beneficiaries are all charities	Executor	This is legally required where there is a sole charity beneficiary or where appropriation has occurred, and the land is deemed charitable. A S122 Certificate should also be requested. If you are in doubt, ILM members will be able to advise you about how to obtain the report.
Copy of any IHT calculation, or IHT400	Executor	This is an audit requirement where IHT is being paid because of the various charity exemptions.
Estate Accounts with distribution schedule	Executor	A charity cannot sign a receipt and discharge for a legacy until it has seen and approved final estate account.
Tax Reclaim Form R185	Executor	This enables the charity to reclaim any tax paid on their proportion of income during the administration period. ILM has guidance on this if you are in doubt about how to complete the form.



The checklist

Valuable

These are documents that we advise our members all files should probably contain, but which are not a legal entitlement or requirement. Failure to hold these documents should not result in the file failing audit. If these cannot be easily obtained, we recommend that our members not make excessive efforts to obtain them.

Document	Best source	Notes
Fees estimate and terms of business, where a solicitor is also named as the executor	Executor	This is helpful for our members to receive to estimate the legacy more precisely. We do however advise our members that they are not entitled to this unless you are named as the Executor, as they are not your client, the Executors are. We also advise our members that fees estimates do not require agreement or approval from the beneficiary.
Schedule of Assets and Liabilities	Executor	This is helpful in estimating the value of the legacy more precisely. Now that the IHT205 has been disposed of this is even more valuable in understanding what assets are in the estate.
Property Valuations	Executor	The property is often the single biggest asset in the estate, and therefore the property valuation is helpful in reassuring auditors that full value has been obtained.
Property Marketing details	Internet	We recommend our members print these off the internet themselves.
Agent's letter recommending acceptance of an offer	Executor	Members should only ask for this if you are accepting a low offer or there are other circumstances which might cause an auditor to raise a query on the file.



The checklist

Dependent upon circumstances

These are documents that will sometimes be relevant but should only be requested when they are of direct interest or relevance.

Document	Best source	Notes
Any additional writings, or letters of wishes where relevant	Executor	These are useful to receive if they potentially affect the value of the residue.
Breakdown of solicitors charges and any expenses that are not covered in the will.	Executor	<p>High fees can sometimes cause auditors to raise a query.</p> <p>Our guidance is that fees up to 5% of the gross value of the estate at the date of death are generally reasonable.</p> <p>We fully recognise that there are many reasons why a firm might charge fees over 5%, and so an explanation is very helpful to our members.</p>
Deed/Memo of Appropriation	Executor	Where capital gains tax is at play, appropriation of the relevant assets should be considered, and a Deed or Memorandum provided to the charity. Depending on the terms of the will the Deed/ Memorandum may need the consent of the charity(s).

If you have any questions or suggestions about this factsheet, please contact ILM at ceo@legacymanagement.org.uk

We are enormously grateful for your support.