

# Information sheet

## Complaints from charities

### How we can help

The complaints we receive from charities are usually about the solicitor sorting out the estate of someone who has died and left the charity a gift in their will. These are known as probate cases.

The help we can provide depends on whether your charity:

- is an executor or trustee of the estate;
- is a residuary beneficiary; or
- has been left a specific amount in a will.

An executor is a person appointed to carry out the instructions in a will. When the executor is not a solicitor in the firm your complaint is about, he or she is known as a lay executor.

A trustee is a person who is looking after money or property for someone else (for example, property held on behalf of a person under 18).

A residuary beneficiary is a person who is left the rest of the estate after funeral expenses, debts and all other gifts have been paid out of the estate. A clause in the will would say something like 'I leave the rest of my estate to my son'. A residuary beneficiary is not the solicitor's client but may be the surviving husband or civil partner. (Civil partners are same-sex partners who have entered into a legal arrangement, known as a civil partnership, and have the same legal rights as married couples.)

If you want to make a complaint about the solicitor sorting out an estate, send us copies of the will and 'grant of probate' when you write to us as this helps us see how we can help.

### If your charity is an executor or trustee

In probate cases, the solicitor's client is the executor or trustee of the estate. If your charity is an executor or trustee, you are the solicitor's client. This means that if we decide the service provided by the solicitor was poor, we can:

- award compensation for any 'financial effects' (expenses that you have paid because of the solicitor's poor service and would not have had to pay otherwise);
- reduce the solicitor's bill; and
- tell the solicitor to take specific steps to put things right.

We will not normally award compensation for distress and inconvenience caused by the poor service as this is for individual people rather than organisations. We explain these powers in our Guidance on compensation, which is on our website at <http://www.legalcomplaints.org.uk/guidance-on-compensation.page>.

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#### Legal Complaints Service

Victoria Court : 8 Dormer Place : Leamington Spa : Warwickshire : CV32 5AE

Tel 01926 820082 : Fax 01926 431435 [www.legalcomplaints.org.uk](http://www.legalcomplaints.org.uk)

Resolving complaints about solicitors



### **If your charity is a residuary beneficiary and there are lay executors**

If your charity is a residuary beneficiary then you are not the client. If any of the executors of the estate are lay executors, you should first raise your concerns with them. The lay executors may be able to sort the matter out with the solicitor. If that is not possible, the lay executors can complain to us.

Lay executors are the solicitor's clients and so we can deal with their complaint in the ways set out above.

If you make a complaint which is not supported by the lay executors, what we can do to help is very limited.

### **If your charity is a residuary beneficiary and all of the executors are partners of the solicitor's firm**

If your charity is a residuary beneficiary you are not the client. You should send us your complaint without waiting too long as we want to help by encouraging good communications between you and the solicitor. If this is not possible, we will ask the solicitor to give us a reasonable timetable for completing their work. If the solicitor does not give us a timetable, or they don't keep to it, we can:

- tell the solicitor to take specific action to put thing right;
- reduce the solicitor's bill; and
- award compensation to the estate for financial effects suffered as a result of the poor service.

### **If your charity has been left a specific amount of money (this is called a pecuniary legatee)**

If your charity has been left a specific amount you are not the client. If there are any lay executors, you should contact them as they may be able to help. If the lay executors complain to us, they are the solicitor's clients and we can take the action described above.

If your charity has been left a specific amount and all of the executors are solicitors in the firm dealing with the estate, the only help we can give is to work with the solicitor to sort the matter out. We don't have any formal powers.

### **Whatever the situation, we don't have the power to do the following.**

- Give you legal advice or comment on legal issues such as who may be entitled to what under the terms of the will.
- Handle the estate or tell the solicitor how to do it.
- Remove the solicitor as the executor.
- Monitor the progress of the case.
- Comment on any advice the solicitor has given, or decisions he or she has made, when acting as an executor. This could include decisions such as when to sell shares from the estate or how to invest estate funds.
- Decide whether the solicitor's bill is fair and reasonable. (For information about how to get a bill checked, ask us for our information sheet on costs – IS08.)