

Chris Kenny
Chief Executive
Legal Services Board
Sent by email only

LEGAL
SERVICES
**CONSUMER
PANEL**

31 October 2011

Call for evidence: Investigation into will-writing estate administration and probate activities

Dear Chris

Thank you for sending me the LSB's call for evidence. I was delighted that the Board acted immediately on the Panel's will-writing advice by opening a statutory investigation, which is the first formal step towards regulation.

The Panel is providing an interim submission at this stage as we wish to understand the consumer experience of probate and estate administration services before reaching a view on whether this area of law should be regulated. I am pleased that the LSB and the Panel are working together to commission this research, which is due to report early in 2012.

In the meantime, we are pleased to enclose an analysis of complaints to the Legal Ombudsman about probate and estate administration covering its first year of operations, which we hope provides a unique contribution to the evidence base. We are grateful to staff at the Legal Ombudsman for granting us access to their case management system for this purpose. This access is enabled by Section 152(3)(b) of the Legal Services Act, which enables the Legal Ombudsman to disclose restricted information to the Legal Services Board for the purposes of enabling or assisting the Board to exercise any of its functions.

Yours sincerely,



Elisabeth Davies
Chair

Analysis of probate and estate administration complaints to the Legal Ombudsman

Introduction

The Legal Ombudsman kindly invited the Consumer Panel to review complaints about probate and estate administration services to help us identify the risks facing consumers in this market. The visit took place between 4-6 October and 150 cases were reviewed.

Section 152(3)(b) of the Legal Services Act enables the Legal Ombudsman to disclose restricted information to the Legal Services Board for the purposes of enabling or assisting the Board to exercise any of its functions.

The findings are organised in three sections:

- Part 1 - Case statistics
- Part 2 - Impact on consumers
- Part 3 - Complaint reasons

All cases cited have been anonymised to protect the identities of the parties.

The analysis should be read with the following in mind:

- The sample of 150 cases represents a little less than 10% of wills and probate cases that have been closed by the Legal Ombudsman in its first year of operation. The cases selected therefore may not be typical of those received, but are nevertheless helpful in identifying the potential risks. A random sample of closed cases was selected by the Panel from the Legal Ombudsman's case management system to represent the most common types of complaints.
- The Panel prioritised obtaining information on the basic facts of the complaint as recorded by Legal Ombudsman staff based on the complainant's initial description of the complaint and the case resolution as recorded by Legal Ombudsman staff. There is often a considerable degree of additional detail that emerges during the investigation which it was not possible to record during the time available. We decided to glean the essence of complaints in order to identify key risks for consumers rather than to review a smaller sample of individual cases in fine detail.

- We do not comment on the merits of cases or the appropriateness of outcomes
- The case information contained in this report reflects how the complainant viewed the complaint at the initial stages of the investigation. It does not reflect the Legal Ombudsman's interpretation of the facts or the case.

Part 1 - Case statistics

Data from 6 October 2010 to 12 October 2011

Type of complaint	Proportion of wills and probate cases involving this type of complaint
Delay	18%
Failure to follow instructions	13%
Excessive costs	12%
Failure to advise	11%
Failure to keep informed	10%
Cost information deficient	10%
Failure to progress	9%

Part 2 – Impact on consumers

The case management system records information about the impact of the case on the complainant and others. This information is inputted by staff at the Legal Ombudsman, interpreting the complainant's own description of the circumstances, usually based on a telephone conversation. This information has enabled the Panel to assess the type and severity of detriment that consumers might experience in this market.

The main impacts are recorded below under seven headings, although it should be noted that often the complainant experiences multiple impacts.

Financial

Complainants often felt they had to pay an excessive amount in legal fees. Some people felt these fees were exhausting the estate leaving little left for the intended beneficiaries. They described how these funds, often running into many thousands of pounds, could have made a substantial difference to their financial situation. Examples included having to cancel a planned holiday or losing the deposit on a home. The financial impact on complainants was keenly felt when the final bill was well in excess of original estimates and/or the increase came as a surprise. Some complainants described having to pay legal fees out of their own pockets rather than from the estate. On occasions people lacked sufficient funds to pay the legal fees and had to obtain loans on which they paid interest. In some situations, the financial implications were extended and difficult to unravel, for example losing out in a divorce settlement, or water damage to a property because instructions relating to purchase of insurance were not carried out.

“C is surprised that the solicitor could not maintain costs at the original amount estimated and is now double the fee anticipated. He feels the fees are getting out of control.”

“The estate cannot afford all of these charges, there will be nothing left to carry out the wishes expressed in the will.”

“This has meant the complainant has had to use her own money to pay her Grandma's bills. She has gone overdrawn and is now in debt.”

“The situation has caused us distress and disappointment with serious financial implications for us as a family. My daughter and her husband were hoping for the money as a deposit to purchase their first home. They now have to continue renting their one bedroom flat for £725 per month. I was hoping to take a period of voluntary unpaid leave to travel overseas but this offer is no longer available to me.”

“My mother's estate has been reduced in value by £40,000.”

Stress and annoyance

Complainants frequently highlighted the additional stress caused by their lawyer during what was already a difficult time. This was particularly acute when the probate process dragged on, with people describing this as preventing them from drawing a line under

the matter and thus achieving closure on the death. People described getting angry at the delay and lack of communication by their lawyer. Some complainants were elderly and described things as being particularly stressful to deal with at their age.

“Absolute frustration. I am so angry I cannot bear the way they have treated us. It's appalling. I am more angry than I can put into words. It's gone on and on. Lots of phone calls not returned, fobbed off.”

“This whole matter has been very upsetting, I found it very hard to believe that they had been so disrespectful to my mother and so nasty to me. I feel so wronged.”

“The complainant and her family are very distressed by these issues. The family were still trying to come to terms with the loss of their son and did not expect to have their lawyer cause further distress. They have still not got closure on the matter and are now having to pay for this work to be carried out by a further firm.”

“When I tried to communicate with my solicitor about the complaint I had to write to him which took days because I could not express myself in person or over the phone. I feel sick at the way I have been treated by the firm and I feel as though I have not been able to grieve for my mother because this matter has been unsatisfactory dealt with and ongoing for a long time. I feel like running away.”

Health

Sometimes the experience affected people particularly badly and their health suffered as a result, for example by triggering depression. Some cases involved people in vulnerable circumstances, for example people with learning difficulties, and problems related to the estate made things even more difficult.

“I felt stressed as my Grandmother had passed away and I was really close to her. My mother was supposed to help deal with everything but was not able due to our loss and I did this alone. I am not able to work due to the solicitors actions and have been in hospital because of this. I am still not better. I am on anti-depressants. I am suffering financial difficulty as the bills were transferred into my name. The solicitor offered to pay these for me but I do not want them to do this because of the cost implications.”

“The solicitor's delays resulted in us suffering abuse and trauma which impacted upon our health”

“Whilst this has gone on I have had no closure on the death of my mother. I am drinking heavily and I feel it is ruining my life.”

Relationships

Complainants described how the stress resulting from the lawyer's actions had contributed to a breakdown in family relationships.

“The high levels of stress have led to a breakdown of the relationship between us siblings.”

“This has had a serious effect on us as there have been significant problems in the handling and resolution of the estate which are still outstanding. This situation has also caused major rifts between family members with obvious distress and unpleasantness.”

Time and inconvenience

Complainants described experiencing unnecessary delay and inconvenience. They felt dealing with the probate took an inordinate amount of time involving a great many phone calls and continual chasing.

“I am 85 years old and my solicitor’s poor service has caused me to spend many hours in lengthy correspondence with them. This has prolonged the heavy burden on me which I should not have to bear.”

“The family have endured considerable stress not knowing whether the buyers of [two properties] would pull out owing to the delay in obtaining probate.”

“[The solicitor’s] advice caused me to pursue a course of action that I otherwise may not have followed, and needlessly wasted my time over an extensive period.”

“I am frustrated at not being able to resolve the matter after an extraordinary length of time”.

Loss of confidence in legal profession

Complainants report their experience has shaken their confidence in lawyers. There is a sense that people expected better from a professional placed in a position of trust. Some people felt particularly hurt that, in their view, the lawyer had exploited them at a time when they were at their most vulnerable.

“I am shocked and don’t know how I can pay this. I have lost trust in this solicitor. It seems underhand and devious not to make me fully aware of these charges. It is completely devastating and a big financial worry to me.”

“The service has been poor. They seem to have conveniently come up with a fee of £500. I feel I am almost being extorted.”

“He has lost trust in law firms and is distressed. It cost his family a fortune in legal fees.”

Other

Some complainants were executors and said they felt embarrassment and suffered a loss of respect from beneficiaries due to delays and other problems caused by lawyers. An example was when beneficiaries made reasonable requests for information which they were unable to provide. Others described having to put life plans on hold in order to see the work completed, such as a planned move overseas.

“Our client is very embarrassed and upset that her husband died nearly 10 years ago and the administration is still unfinished. Our client thinks this is not acceptable and wants action taken immediately.”

Part 3 – Complaint reasons

This section includes a selection of cases in each of the major complaint category headings for wills and probate (see Part 1 for a list of these).

In order to preserve anonymity, the complainant is referred to as ‘C’.

Readers are reminded that the case information contained in this report reflects how the complainant and viewed the complaint at the initial stages of the investigation. It does not reflect the Legal Ombudsman’s interpretation of the facts or the case.

Costs

The most frequent cause of complaints about probate relates to costs – categorised as either excessive costs or deficient cost information. The underlying reasons for complaints of this type included:

- Failure to give a clear estimate of the likely costs
- Costs being excessively high, for example relative to the size of the estate or because the estate was apparently straightforward to administer
- Final bills being far in excess of initial estimates, often with little communication from the lawyer to explain such increases, in the context of cases that can take many months or even years to complete
- A lack of information being given as to breakdown of costs
- Being charged for an initial consultation which the complainant understood was being offered free of charge
- Charging fees for work which the lay executors had done
- Selling property at well below the market value in order to achieve a quick sale resulting in reduced inheritance for the beneficiaries

01

C was not happy with the firm’s charges and complained that these exceeded the estimate and no costs updates had been given throughout the matter. According to C the matter took over 2 ½ years plus a further year in dispute. No invoices were sent from the day after grant of probate until more than two years later and only then because C was not happy with the estate accounts which he said contained clear errors. C claimed that no likely overall cost was given at the outset nor as the matter progressed, nor were his options explained to him. During the complaints process the firm instructed an independent solicitor to investigate the matter on their behalf.

Outcome of the Legal Ombudsman's investigation:

This case was resolved informally. It was agreed that the firm would reduce C's costs by £4,500 to be more in keeping with their estimate, offered him £1k compensation for the distress and inconvenience and agreed to return his file of papers to him at no charge.

02

C instructed a solicitor's firm in relation to his Grandmother's estate after a consultation meeting. Two days later C received a quotation for £4000 - £5000 plus VAT, but decided not to proceed. The firm said that no work would be done until C had signed a form saying he was happy with the estimate. C then received a statement of account for £330.20 covering the consultation meeting and a discussion the solicitor had with another solicitor in the firm, plus an additional fee of £26 for an estimate letter. However, C said he had understood the consultation meeting was free. When C went to collect the paperwork he had to pay this bill, as the firm refused to release the papers without payment.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally. The Legal Ombudsman found that the firm had provided poor service and the firm agreed to make a full refund to C.

03

C is a co-executor for his late step-father's estate along with the firm. C believes that the firm misled him regarding issues such as payment to the funeral directors. C said at the initial meeting the solicitor was unsure of the costs of administering the will and would not give him any sort of idea of what the costs would be. C believed that they had not provided the correct costs information to his late step-father at the time of making the will and wanted the firm to renounce their position as co-executors prior to obtaining the grant of probate. C was not happy at the costs of administering the will and asked an independent solicitor to give an estimate, which was much less than firm's charges. The solicitor's explained that they would not renounce their co-executor status in the best interests of the estate and that they were appointed by the deceased.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally. In order to resolve the matter the firm reduced their quote for administration of the estate.

04

When the solicitor commenced acting the costs involved were estimated at £2,500. A series of interim bills had been issued by the solicitor. In the first interim bill, the fees exceeded the estimate by £200, although C was not made aware of any increase to the original amount until a month later when a further bill of £700 was received followed by

another bill for £900. The total bill to date is over £4,500 and whilst probate has been obtained C's late father's property has still to be sold. C was unhappy with the amounts charged given that there have been no complications that he is aware of to justify any increase in the fees charged.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally. The Legal Ombudsman found that although the estimate had been exceeded, warnings had been given and costs properly incurred. C accepted this finding.

05

C instructed the solicitors to deal with his late father's probate. From the start, C felt there was a lack of contact from the solicitors. The probate had been ongoing since November 2009 and C felt he had not been updated about what stage the process had reached. In addition, C said he was not given any information as to costs and was never told the solicitor's hourly rate. He had used this solicitor previously, when he worked for a different firm. As the solicitor did not provide any costs information C felt entitled to assume that the rate would be similar to the rate he had been charged by that solicitor previously. In February 2010, the complainant asked for a costs breakdown but was not given this until April, and after chasing the solicitor, at which point the costs were significantly more than he had expected. C further felt that the solicitor had made arbitrary decisions in order to push up the costs, such as his choice of insurance. C suspected that a lot of the work has been done by a paralegal or secretary, however he has been charged for at a solicitor's rate.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally. The Legal Ombudsman found poor service as the cost information was not clear and felt that the solicitor could have made more of an effort to keep costs down but did not. An initial settlement was rejected but an increased offer of £750 was accepted.

06

C instructed the firm to assist in the administration of an estate under which he was Executor. The probate was without complications as he was the sole beneficiary. The firm produced a bill for nearly £8,000 at the conclusion of the retainer. C was concerned he had not received adequate costs advice as the firm had stated that it would cost £1,000 for probate and thereafter they would notify C of an estimate of how many hours the matter would take, which they did not do. The final bill included a charge for the "Value Element" of over £2,500 but this was not explained clearly at the outset of the retainer.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally. In order to resolve the matter the firm agreed to write off the Value Element. They have also refunded a further sum which was payable to their property sales company.

07

C instructed the firm to assist in obtaining probate following the death of her father. The only cost information provided was done verbally; C was under the impression that approximately 10 hours were needed to complete the work. No cost information was provided throughout the case until a final bill was sent for 26 hours work. C felt this was unacceptable and disputed some of the costings in the breakdown of the bill, which she felt were unusual, e.g. a £600 cost for the initial meeting, 2 hours of travel to get there and for sending her a brochure about the company.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally: a compromise was reached for charges equating to 17 hours work.

08

C instructed a solicitors firm to deal with the probate of his mother's estate. They quoted fees of £3,000 to £5,500 plus VAT and advised on a timescale of 6-12 months. The fees then increased to over £8,000 plus VAT without informing him of this. After probate was granted, the firm sent a bill of over £11,000 plus VAT which eventually took two years to conclude. C felt he was misled in terms of both fees and timescales and that the firm failed to give an adequate response as to why the fees and timescales were way out.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally: it was agreed by both parties that the bill would be reduced by £2400.

09

C said the firm had not provided a breakdown of the costs charged despite being asked for this several times. C felt that the bills were unclear and it was not easy to see what the firm was billing for or what work was done. She feels that there were lots of hours quoted but it was not clear if these were inclusive of other totals mentioned or cumulative. C said there is a large difference between the 2-4% quoted and the 17% charged for administering the estate. She is also concerned as she is struggling to see how the amounts distributed match up with the value of the estate.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally: the agreed remedy was for final invoice of £1,800 to be waived and an apology.

10

C said that she was told by the solicitor that the costs for probate work would be £1,000 for her mother and £2,500 for her father, but that in total the costs have amounted to £10,250. C said she received monthly invoices but these did not include a breakdown of the charges. When C received a breakdown of costs she was surprised to see what was being charged for, especially as the work appeared to be being reviewed by lots of different people in the firm and she was being charged each time this was carried out.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally: the firm agreed to reduce C's costs by 20%.

Delay, failure to progress

Complaints about delay and failure to progress are taken together. In some cases the Legal Ombudsman concluded that delays were caused by issues that were not caused by the firm but which nevertheless took significant time to resolve. However, in cases where firms were found to have provided poor service, the underlying reasons for complaints of about delay included:

- Estates which were apparently straightforward taking a long time to complete
- Inaccurate estimates about the likely time the matter would take
- Timelines that were repeatedly pushed back
- Lack of or slow response to letters and phone calls etc
- Inadequate explanation about the reasons for delay
- Delay resulting from mistakes requiring remedial work, such as errors in tax returns or accounting errors
- Delay in distributing money
- Delay resulting from issues at the firm – e.g. solicitor overworked or illness

11

C, as a residuary beneficiary of the will, complained of delay as the solicitor had taken over 6 years to wind up the estate of her relative.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally: the solicitor offered to complete work within 8 weeks and reduce the final bill by 10%. Thus each of the remaining beneficiaries, who were all added to the complaint, all received an amount to compensate them for their inconvenience.

12

C, as the sole executor and sole beneficiary in her husband's will, instructed solicitors to act in the estate. C's husband passed away 9 years ago yet the administration of his

estate has still not been completed meaning she had not received monies that were owed to her. She had been waiting for a cheque for at least three years for more than £5,000 and was still waiting for the deeds to her property.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally: the solicitors agreed to reduce their bill from over £6,000 to £2,500 plus VAT.

13

C, her partner and mother were all beneficiaries of a neighbours' Will. They were written to by the firm who confirmed that they would each inherit 10% of the final estate, once its full value had been realised. The winding up of the estate took a very long time, but the beneficiaries found it difficult to get any answers from the firm about what was going on and how long it might take. The amount they would receive was also a concern as it appeared to be less than they had originally thought, but kept on changing.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally. Following investigation by the Legal Ombudsman it appeared that the firm were just waiting for a tax refund from the HMRC to enable them to complete the final accounts and distribute the money. The cheque finally arrived and the firm updated the complainant about when monies would be distributed and exactly how much they would receive.

14

C instructed a firm of solicitors in December 2008 to handle a probate matter and was advised it would be finalised by the end of November 2009. The firm failed to satisfactorily progress the matter or respond to C's requests for updates between November 2009 and April 2010 and between June and September 2010. C wrote to the firm four times between April and September 2010. The firm responded in October 2010 and advised him his case had been transferred to a new fee earner within the firm but the probate matter was still not completed. C wrote again in December 2010 but the firm failed to acknowledge or respond to his complaint. He subsequently complained to the Legal Ombudsman in February 2011.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally. The firm accepted full responsibility for the delays incurred by C and cited internal staffing issues as the main reason for his case not being suitably progressed from initial instruction. They agreed to waive C's fees in respect of the work undertaken to date on the probate matter, to complete outstanding work, pay £100 in compensation and to provide a full apology.

15

C instructed a solicitor to deal with the estate of her late husband in August 2009 and was assured it would take from three to six months to sort out. The property was sold in April 2010 for £260,000. There were issues in respect to paying inheritance tax and four sets of draft accounts were sent for approval, some of which were sent to the wrong address. The Legal Ombudsman found the firm had been unreasonable in number of attempts to get the accounts correct as they were sent without going through internal checking processes. Complaints were made throughout the retainer but these were not acknowledged which culminated in the complaint letter being lost and not responded to.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally: the Legal Ombudsman recommended a 25% bill reduction, which both parties accepted.

Failure to advise

This category is for complaints where it is reported that the lawyer did not provide legal advice which would reasonably have been expected. A complicating factor in this area is duties of client confidentiality; when issues later come to light the beneficiaries felt they should have been informed. In cases where firms were found to have provided poor service, the underlying reasons for complaints about failure to advise included:

- Failure to inform beneficiaries and executors about their inclusion in a will
- Not alerting consumers to their rights, e.g. to challenge a will
- Not making consumers aware of the possible consequences of taking a certain course of action, e.g. having to sell a property in order to meet the claims of other beneficiaries in a settlement offer
- Incurring unnecessary tax liabilities
- Not alerting consumers to a change of fee earner

16

The complaint was that the firm, who were instructed by the executors to administer the estate, failed to inform a beneficiary that they could contest the will of their grandfather as it did not include an instruction to continue to pay for their private education as had been the case since commencing education. The Legal Ombudsman found that the firm did explain to the beneficiary and their mother that the will had no reference to payment of school fees. The firm were also aware that C's mother had her own legal representation and they advised her that they would respond to any contact from her solicitors regarding the will. C's mother's solicitors advised her that there was nothing they could do so no contact was made with the firm. Then after 2 years C was advised that they should have complained about the firm, which they later did and the firm replied that they had not acted incorrectly.

Outcome of the Legal Ombudsman's investigation

The Legal Ombudsman found no poor service so no remedy was necessary.

17

C is the sole executor and beneficiary of his mother's estate, but the solicitors failed to contact him to advise that he was a beneficiary and an executor in relation to her estate. The solicitor had contacted his mother's local council who were looking after her while she was still alive in a care home, but did not contact him until 7 years after she had died. This meant he was not aware of the funeral costs and financial implications in relation to the estate and did not receive the £1,500 that was left in the estate.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally: compensation of £50 was agreed.

18

The complaint was that the firm miscalculated the amount C would receive under her aunt's will and as a result she suffered detriment in a divorce settlement. The amount C received was nearly £20,000 less than had previously been advised. C ended up having to pay her former husband more.

Outcome of the Legal Ombudsman's investigation

This case was resolved by an Ombudsman decision, which C accepted. The Legal Ombudsman found poor service and awarded £250 for distress and inconvenience.

Failure to follow instructions

This category is for complaints where it is reported that the consumer's instructions were not followed. The underlying reasons for complaints of this type included:

- Releasing papers to parties against instructions
- Failure to send copies of letters and documents as promised
- Financial detriment due to the way in which money from the estate was handled
- Not following instructions specified in the will

19

C instructed the firm not to release papers to her sister but they did. C wanted the bill waived in recognition of the poor service and the attitude of the fee earner, who used abusive language towards her.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally: the firm agreed to waive the bill.

20

C asked the firm to transfer her inheritance to her in Canada by way of a bank draft in pounds sterling. The firm sent the inheritance by an international moneymover transaction and as a result of this the monies were converted from pounds to dollars and back again. The effect of the exchange rates, plus admin fees meant that over £1,300 was deducted from the amount transferred.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally: the firm agreed to refund the £1,300 sum.

21

C was left £500 by a family friend as a child in 2000. His mother was told this would be invested in a deposit account until he was 18, but instead the firm had placed the legacy in shares instead of in a deposit account. When C reached maturity the legacy was only worth a little over £100.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally: the firm agreed to honour the initial legacy and pay a further £200 interest.

22

When dealing with the administration of C's mother's estate the firm sold a number of shares contrary to C's express instructions. C claimed the approximate loss caused by this action was £40,000.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally: the firm agreed to pay the difference in value of the shares between the sale in error and the earliest possible date when they could have been re-purchased plus £300 for distress and inconvenience.

23

In a codicil to the will, prepared by the lawyer complained about, C's father expressly stated he wished for C's brother and him to be executors to his estate. C's brother and he were not made aware of this wish following his father's death. Instead the lawyer directed all correspondence to the husband of C's sister even though he had no standing in the will. As a result of this, C's sister was installed as proving executor against the express wishes of C's father. As a result disagreements which have arisen have no easy resolution. C and his brother have no confidence in the solicitor and wish to disinstruct him but C's sister wishes to retain his services, which C cannot oppose. This has left the estate in deadlock.

Outcome of the Legal Ombudsman's investigation

This case was resolved by an Ombudsman decision, which C accepted. The Legal Ombudsman decided the firm should pay compensation for inconvenience/distress caused and to limit their fees to a specified amount.

24

C is one of the executors of his mother's will. He asked to be copied in on all correspondence, to which the solicitor agreed. Also it was agreed that all correspondence would be sent out to both executors. C found that he was not receiving the letters from DWP which were going to the solicitor. When he realised this, he raised this with the solicitor who apologised and agreed to copy him in again. After being presented with a bill he asked for a breakdown of the costs, within which he considered that many letters which he had not been sent. After viewing the files, he found most of the letters he had been charged for were duplicates. The solicitor stated they were not duplicates as there was a different name on the top of the letter, which C found very unreasonable. C found all his letters and emails were copied to the second executor, but emails coming to the solicitor from the second executor were not copied to him.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally: it was agreed that all correspondence be forwarded to C and the solicitor reduced his bill in recognition that some letters sent to him were duplicates.

25

The firm were dealing with the probate of C's late aunt. The insurance for his late aunt's property was put into the firm's name. It was not an extensive cover and did not cover the property from water damage from burst pipes or frost. C asked the solicitors, at his first meeting with them, to make sure that her house was fully insured by changing cover from a standard property cover to include unoccupied, unfurnished cover. The solicitors did apply to change the insurance policy but didn't follow it through and the policy was not changed. There was water damage to the property and C was forced to carry out repairs as the firm said the property was not covered.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally: the firm met the claim and admitted they had made an administrative error.

26

C's mother passed away and employed a solicitor to deal with the probate. This involved transferring two properties into her name. The leasehold on one of the properties was running out and C felt that the firm had taken steps to transfer it into her name prematurely. When she was merely the executor she would have had a right to extend

the leasehold but as soon as she became the owner, that right could not be exercised for two years at which point it would have been more expensive to do so.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally: the firm offered to waive the outstanding fee, which was around £1,000.

Failure to keep informed

The underlying reasons for complaints of this type included:

- Lack of communication between the lawyer and executors and beneficiaries despite requests for contact
- Failure to respond to letters and phone calls etc
- Failure to update the parties

27

C raised a number of service issues that had arisen since the firm had taken on executorship of her late mother's estate. The service issues raised included: failure to return phone calls and respond to letters; sending a letter to the incorrect address despite being updated with new addresses; sending a letter to C's brother containing another client's details; and attending a meeting unprepared and without giving C sufficient notice of the information required from her.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally: the firm agreed to apologise.

28

After C's father passed away he appointed a friend as executor but C is not in contact with him. C and her sister became aware that the firm were appointed to deal with the estate shortly after their father's death. C contacted the firm to request whether she and her sister were named beneficiaries in their father's will. Some weeks later the firm advised that they were beneficiaries and they expected the estate to be concluded shortly. The firm stopped communicating with C and she appointed her own solicitor to contact the firm but they were unable to open channels of communication either. C asked her new solicitor to stop acting because he was not getting anywhere contacting the firm dealing with the estate.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally: the firm agreed to complete the work.

29

C and her cousins were waiting for monies under a will for which the firm were conducting probate. They did not receive the monthly reports or bills as promised in the firm's client care letter. There was also delay of a few months due to HMRC.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally: the firm agreed to pay compensation of £50 and to send a letter of apology. The firm also agreed to revise their client care letter going forward to not include promises of monthly bills and reports when not feasible.

30

C was named as a beneficiary to a will. He complained that he had not been kept informed as to the progress of the probate and was concerned about the firm's apparent failure to respond satisfactorily to his complaint. There were issues relating to the probate such as the sale of the house owned by the deceased and the costs of the probate. C also wanted an update on these issues.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally: the firm agreed to write an apology and provide a full explanation of the issues to C. They also provided an estimate of when the probate might be completed and an explanation as to why the complaint was not handled.

31

C's husband had died. The firm were supposed to be dealing with the transfer of her home into her sole name but had not completed the work and had apparently hung up on her when she called them. C had sent two letters of complaint by recorded delivery and had not received a response. C felt the firm was deliberately obstructing her and their conduct had been hostile and unhelpful.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally: the firm returned the deeds to C.

Failure to keep papers safe

The underlying reasons for complaints of this type included:

- Loss of paperwork, including sensitive documents

32

C instructed the firm regarding her late Aunt's estate. She provided copies of relevant birth, marriage and death certificates which were copied and stored. Problems arose in that many copies were lost, certain documents were not reordered or replaced, delay in

progressing the probate occurred and C felt that the staff had spoken to her rudely. The firm had internally accepted the problems and offered a reduction in the fee, compensation and no charges on the reordering of the certificates.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally: the Legal Ombudsman found that the firm had failed to provide copies of certain documents and needed to give C assurance that their systems would be improved. Both parties accepted the following as a resolution: an apology for the poor service; an additional £50 compensation as distress and inconvenience; an apology for perceived 'rude' behaviour from staff; replacement copy of certified birth certificate; and an explanation on actions taken to improve their processes.

33

C's mother died in 2008. She had 3 insurance policies which the firm had taken away with him years previously for safekeeping, at her request. Now the firm cannot trace copies of these policies. At first, the firm claimed her brother had collected the policies but this was later admitted to be incorrect. When C enquired, the firm promised to consider paying her compensation but never got back to her about it. The firm later promised to contact the insurers for her but again, C had not heard anything since.

Outcome of the Legal Ombudsman's investigation

This case was resolved informally: the firm agreed to apologise and to pay compensation for inconvenience/distress caused.