



## Administering Estates

### Practice management

- Set out at the start of the retainer how you will communicate with the executors, how often that will be, whether you will communicate with the beneficiaries or whether you expect the executors to do that.

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- Set a workflow system that reflects how you agreed to communicate with the client.

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- Update the client on costs, particularly where the work involved is taking time or is outside the norm.

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- Write information booklets/brochures for executors and beneficiaries explaining what is required to manage the estate and what is expected of them and how long it will take or use LPLC's guides.

### Supervision

- Elevate supervision on your firm's priority list!

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- Audit how it is being done.

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- Have regular meetings with staff to discuss how files are going, any unusual or tricky issues.

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- Regularly review active file lists or inactive file lists to ensure that files are not stagnating.

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- Encourage staff to raise concerns with files.

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- Put in place appropriate training and mentoring for new staff.



## Handling assets

- Act promptly when instructed to sell assets, particularly shares.

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- Always insist on written instructions from the executor when selling assets, particularly shares.

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- When instructed to act in the sale of real estate, call for the certificate of title at the beginning and don't be put off by promises that it will be delivered later.

## Distributing the estate

- Maintain a check list to ensure that all debts are accounted for and paid before finalising an estate.

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- Recommend to executors that the estate not be finalised until all of the tax returns are received and all debts paid.

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- Advise executors or administrators orally and in writing of the consequences of distributing within six months of the grant of probate or letters of administration, making it clear that the executor or administrator will bear personal liability if they distribute the estate early and a subsequent claim is made.

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- Pay careful attention to the time frame and diarise appropriate dates, including any dates relevant to any notices of intention to issue an application.

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- Act promptly in the administration of the estate to enable it to be distributed as soon as possible after the expiry of the first six months.

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- Review the details in the will before:
  - instructing the conveyancing clerk to transfer a property to ensure the current interest is transferred
  - paying any money on behalf of infant beneficiaries to ensure there is an entitlement to the money or it hasn't already been paid.

# CHECKLIST

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**LP  
LC** LEGAL  
PRACTITIONERS'  
LIABILITY  
COMMITTEE

- If there is to be a distribution of property, especially real property, pursuant to a deed of family arrangement, all beneficiaries:
- should be warned there could be stamp duty implications
  - should be required to obtain independent legal advice
  - must sign a written agreement evidencing the change.
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- If a beneficiary is bankrupt, contact the trustee in bankruptcy before distributing the beneficiary's bequest to determine what sum is required to be paid to the trustee.
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- Do not be involved in any attempts by a bankrupt to defraud their creditors by not informing the trustee in bankruptcy of the bankrupt's inheritance or by deliberately delaying distribution of an estate until after the bankrupt has been discharged from bankruptcy.