

Information

Wills and Estates

Are you concerned about a lawyer's handling of an estate?

Lawyer acting for the estate (where you are a beneficiary)

The executor is the person who carries out the instructions in the will. The executor will often hire (retain) a lawyer to assist them. As a beneficiary, your rights are limited. The lawyer acts for the executor/ estate, not you. They do not have to respond to every communication from you or provide you with information that is subject to solicitor-client privilege. Lawyers often have no instructions to communicate directly with a beneficiary except at certain stages. For example, when the estate is finalized, the lawyer must have their fees approved, often called "passing the account" either by court order or through beneficiary consent.

You might be concerned about how long it is taking to distribute the money/estate. The steps to complete an estate are often outside the lawyer's and the executor's control. For example, dealing with banks, gathering the assets, notifying potential beneficiaries, and securing property are just some tasks that an executor may have to attend to before they can consider distribution. If property needs to be sold that can further delay the matter as additional taxes (capital gains) and other steps need to be taken. Applying for probate takes time even when all the steps are completed as it is the court that grants the probate. Distributing an estate too early can leave the executor and potentially the lawyer open to further legal action.

While there is no definitive timeline, even a simple estate can take a couple of years to finalize, especially if a tax clearance certificate is needed. If you are concerned about excessive delay and you have never been provided with any updates or information, you may wish to contact us to discuss whether you should make a complaint. Before doing so, please consider whether your first step should involve contacting the lawyer and asking for an update. You should also seek your own legal advice on your rights and obligations.

The will lists a lawyer as an executor.

Some people choose to ask a lawyer to act as an executor instead of a family member or friend. The lawyer (executor) has an obligation to move the matter forward and has the same obligations as an executor.

A lawyer must be careful in how they bill in these situations. For example, a lawyer, acting as an executor, cannot bill both an hourly legal rate for personal tasks (cleaning out a house) and, at the same time, take a fee based on a percentage of the estate's value. However, a lawyer is entitled to bill for legal tasks like applying for probate. Ask the lawyer (executor) for an accounting or explanation if you have concerns. If you are not satisfied, please contact us.

Lawyer acting in their personal capacity as an executor (relationship with the deceased may be personal, i.e., their own parent or spouse)

In this case, our role is limited to serious conduct issues only. You should seek your own legal advice if you are concerned about the way the estate is being handled. The Law Society will generally not intervene in the private-life disputes of lawyers. Lawyers, like others, are entitled to take legal positions in their private lives, such as in a divorce or other civil dispute. However, if there is a court decision that is critical of a lawyer's conduct in their private life, you can contact us.

(Resources Please note that these organizations in the links below are not run by the Law Society of BC)

[Legal resources for the public](#)

[Rights of beneficiaries & others | People's Law](#)

[Represent someone who died - Canada.ca](#)

[Public Guardian and Trustee of BC | Public Guardian and Trustee of British Columbia](#)