



Martlets

Genealogists insights 2015

10 tips for Estate administrators

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1. Don't assume- draw up the family tree

As a solicitor or estate administrator, never just assume that you have the correct class of kin. Your client is the deceased's cousin. Are you sure that the deceased only married once and that he had no children? Did his only brother really die a bachelor without issue (and was he his only sibling)? These are issues that need to be clarified in order for your estate to be distributed correctly. Less obvious maybe is whether your client is a full-blood first cousin and not a cousin of the half-blood (and therefore potentially not entitled) or a second cousin (definitely not entitled!). This is where we come in, as professional probate genealogists.

2. Don't do it yourself (and rely on the internet)

The internet is an increasingly useful research tool and a lot of genealogical research can be carried out using internet search engines, with the requisite know-how. However, as with all tools, it is essential to know the uses and limitations of search engines; they are really just the beginning of the research process and it is essential to back up research with certificates (see tip 4). It is also commonly acknowledged among professional genealogists that the transcription of digitised records has not been without its hiccups. In terms of popular websites, finding somebody via social media or a search engine does not prove either their identity or their entitlement to an estate and it is a fairly common misconception that everything can be solved by using the internet. To avoid doubt, it is essential that information found on a genealogy website is corroborated by independent research. Which brings us to tip number 3:

3. Don't rely on family information

Your client may have known the deceased personally; but for how long? Was this just in the deceased's later adult life? Even with the best of intentions, the deceased's younger relatives cannot be relied upon to provide information about events in the deceased's life (and the lives of other family members) which took place long before they were born. Then there is the possibility of a long-kept family secret, which may not involve the deceased directly, but may be relevant to the class of kin entitled to inherit the estate. For example, did the deceased's mother have a child before she was married? This may sound like the stuff of historical drama but it is not an unusual scenario, for instance, when researching families fractured by the two world wars or before the 1960s, when social mores were different and 'illegitimate' children and marital breakdown were not as well understood as they are today. Family information should also be treated with caution. It seems that virtually all families have at least one amateur genealogist, and they are often an excellent help, providing a wealth of family information. However, many speculative and incomplete family trees are posted on the internet. In many cases, the research may have been compiled using incorrect data (e.g. the wrong census return) and without supporting certificates, the cost of which quickly can add up. The lack of certificates is our concern in tip 4.

4. Obtain copies of birth, marriage and death certificates

Copy certificates are a must to corroborate the information on your family tree. Birth certificates provide essential evidence of the entitlement of heirs to intestate estates. Marriage and death certificates are crucial building blocks for a family tree, especially where surnames are common, and may also provide, in the form of witnesses and informants, vital clues as to the extent of a family (see also the requirements of insurers in tip 7). On several occasions, we were asked to trace a relative of a deceased person who, when certificates were obtained, turned out not to be an entitled relative at all. There are several scenarios in which this may be the case. Firstly, the 'relatives' may not be related to the deceased at all: the alleged 'Uncle Jack' who was not an uncle at all but just a good friend of the family; the 'brother', fostered locally and raised as part of the family, but never legally adopted. The 'father', who was in fact the deceased's step-father after his parents divorced when he was a child. Or perhaps the people concerned are related, but not as expected: the deceased's elder 'sister', who was actually his mother; or, as with a recent case, five siblings of the deceased, only two of whom were of the whole blood, meaning that three half-blood siblings were not entitled. The need for certificates leads us on nicely to tip 5:

5. Employ a professional genealogist

Your first step on the road to efficiently and accurately resolving an intestate estate where the extent of kin is unknown or unclear, is to employ a professional probate genealogist. At Martlets, we have many years experience in resolving estates of all sizes and complexities. Our directors have resolved intestate estates valued from just a few thousand pounds to estates worth several million pounds and we have fee options suitable for all budgets. When a surname is common, such as Smith, Brown, Jones or Evans, we have the expertise to sift through the thousands of birth, marriage and death records to obtain the necessary certificates and trace the entitled kin. We endeavor to speak to all beneficiaries, as family testimony, even if incomplete or slightly inaccurate, is still vital in corroborating research. Another area of our expertise is dealing with emigration. When cousins inherit, it is a rare case that does not involve at least part of the family emigrating, especially to Australia, New Zealand, South Africa or Canada. Martlets have a network of overseas agents whose local knowledge is invaluable and who can avail themselves of records not available on the internet. There are many aspects to what we do but the final point to note here is that a professional genealogist will provide you with a comprehensive genealogical report, with which you may obtain an all important missing beneficiary insurance policy.

6. Get a professional genealogical report

As a long established firm with key staff who trained with one or more of the established London firms, we know the importance of a comprehensive genealogical report to support a family tree. One essential aspect of a thorough genealogical report is 'negative' reporting. It is not enough to underline a stem on a family tree simply with the words 'spinster', 'bachelor' or 'no issue'. For firms like us, it will have taken genealogical research and family interviews, together with perhaps several copy certificates and grants of probate, to arrive at this conclusion. The report is the genealogist's means of conveying to the estate administrator the evidence for their conclusions. This is particularly important as a decent report is integral to your application for a missing beneficiary insurance policy. Insurers expect probate genealogists to observe proper standards and employ good working practices, such as checking details on marriage and death certificates to ensure that all family have been identified; using multiple sources when transcribed records are consulted; and by interviewing as many family members as possible. Why is insurance so important? On to tip 7...

7. Obtain missing beneficiary insurance

You've employed a professional genealogist who has provided a comprehensive report and a family tree. The deceased's relatives have confirmed the extent of the family. Why then would you need a missing beneficiary insurance policy? The answer to this question really depends on just how well the deceased was known to the family. We would argue that a policy is absolutely essential in cases where cousins are entitled. The internet age has meant that in terms of communication the world has shrunk and it is an increasing possibility that using social media and genealogical websites could lead to long lost family members appearing unexpectedly from anywhere in the world. New records also become available over time and may appear online in the future, which could make an estate vulnerable to claims from kin who could simply not be identified before (the release of new census records every decade is a classic example of this). It is therefore essential that cover is obtained to protect against previously unknown kin emerging to claim all or part of an estate (claims may be made against estates for at least a period of twelve years after the date of the grant). You may also choose to insure against a will coming to light belatedly. Although this occurrence is rare, we have known it happen and it should be noted that wills don't have to be lodged with local banks or solicitors or registered with Certainty (the National Will Register) to be valid.

8. Know the distribution rules

Intestate estates are distributed per stirpes, or by branch ('stem' is our preferred term). Although the law is clear in this respect, we have encountered instances of estates being incorrectly distributed, or on the cusp of being so (our intervention has prevented this from happening on more than one occasion). It is particularly a danger where a family member (or a solicitor untrained in probate law acting on their behalf) has acted as the estate administrator without taking legal advice (see tip 10). In some cases, it has been argued that it is unfair that an administrator receives only a small share of the estate, having a) known and cared for the deceased all their life and b) undertaken a lot of the donkey work in winding up the estate. This does not however obviate the need for a correct distribution of an estate. Another classic example of incorrect distribution, where an estate is being divided amongst cousins, is for the paternal and maternal sides to be allocated half each and then sub-divided accordingly. The correct distribution is of course for the estate to be divided equally by branch, irrespective of the number of maternal or paternal stems on the family tree. One option to conserve the share of the estate administrator is to instruct us on a contingency basis, and on that very subject, here's tip 9...

9. Use our contingency option

It can sometimes be tricky to provide an estimate as to how long our research will take and how much it will cost. This is because, in many cases, we start with just the deceased's death certificate and have no idea whether the entitled kin will fall in the class of spouse, child, sibling, niece or cousin. In cases where there are relatives able to provide some information, often the extent of family is unknown or the family drifted apart fifty years ago, and it is not known whether family members have died, or emigrated, or both. If a beneficiary did not survive the deceased and left several children, some of whom themselves may have died leaving children, the number of entitled beneficiaries could quickly rise. We recently researched a case where the deceased left his estate to his only maternal cousin. At least, that was the plan. Unfortunately, his will was of the 'home-made' variety and the deceased died intestate. We ended up tracing almost eighty beneficiaries on the paternal side and the cousin who was in touch with the deceased received a significantly diminished share. However, at least their share was protected and not further diminished by the costs of research and disbursements since all of the work was undertaken at our own risk and expense. In these circumstances, contingency is often the best option for all concerned. Please contact us for further details of our contingency service.

10. Employ an experienced solicitor

We have of course emphasised the importance of professionalism in our domain of probate genealogy. However, we conclude our top ten with a tip for anybody considering administering an estate themselves: use an expert solicitor. Although this will involve incurring legal fees (chargeable to the estate), in terms of efficiency and safeguarding your liability as administrator, it is money well spent. Many solicitors in this field are members of STEP (the Society of Trust and Estate Practitioners) and are able to not only ensure that the estate is wound up correctly (e.g. that correct notices to creditors are placed and any inheritance tax liability is properly accounted for) but also that changes in legislation such as the Inheritance and Trustees' Powers Act 2014 are properly understood.

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