

Has Bequest Assist had success going to the court to ask for final statement of accounts to be filed where the executor or solicitor will not provide one?

- In Victoria and WA, we have had great success writing to the prothonotary/registrars where our requests have gone unheeded.
- In other states, we have just begun testing if our requests will be as successful. We will share our results at a later date.
- If you want to try writing to the registrar yourself, make sure you include the probate number, that you are a residuary beneficiary and detail all of the attempts you have made to secure the final statement before coming to them for assistance.

Q: Are there any resources available to refer to when reviewing itemised legal fees to ascertain what work solicitors can charge for/should be at no charge?

- <https://www.lawsociety.com.au/sites/default/files/2018-10/fi...>
- <https://www.rigbycooke.com.au/new-laws-clarify-executor-comm...>
- <https://svensonbarristers.com.au/wp-content/uploads/2017/07/...>
- <https://lsj.com.au/articles/tread-carefully-in-charging-for-...>

Q: I understand the asset list is not required to be submitted for probate in QLD – but are executors/solicitors legally obligated to provide the asset list and final statement to beneficiaries in QLD?

- The right to see an asset list and statement of accounts can kind of be seen together in QLD – because you’re looking for documentation that allow you as a residuary beneficiary to understand the administration of the estate
- The right to see a final statement is not in legislation, but from court precedent around the country. There are lots of different cases that refer to this, but one that we often refer to (which focuses on the need for proper records and accounts to be prepared and maintained) is *Skaftouros v Dimos* [2002] VSC 198. Another is unreported case *Williams v Stephens* NSWSC per Young J, 24 March 1986; BC8601164 in relation to the obligation to provide copies of those records in a “short space of time”.

Q: Where do we go to challenge a commission which we find to be too high?

- Commissions can be granted three ways: they are stated in the Will, they are agreed by the residuary beneficiaries or they are approved by the Court.

- If the commission is not stated in the Will, you should be asked to approve the commission before it is charged (unless they are going to the Court directly which is rare).
- If the commission is stated in the Will, then it becomes an issue of whether or not the will-maker was properly informed before signing the Will (which depends on when the Will was signed, which state it is in, etc).

Q: what's the timeline on challenging public trustee for reimbursement to estate of excessive fees? I'm assuming it has to be before the estate distribution

- I'm not sure about the formal timeline – but I can share from experience that there has been an instance where we have successfully challenged fees after receiving a final payment and final statement.
- Our process is to first raise the issue with the Trustee and outline our concerns and see if we are satisfied with that response.
- In instances where the delay/mishandling has been apparent during administration, we have asked for a reduction in fees at that point.