

Ministry of Justice provide explanation for England and Wales probate reform failure

Synopsis: The causes of the England and Wales Probate Service's severe delays following its reformation into a digital service in 2020, and actions taken to improve the situation.

Date published: 5.03.2025

According to the Ministry of Justice the delays were subject to complaints from several professional organisations and resulted in an investigation by the House of Commons Justice Committee in November 2023.

As part of its evidence into this inquiry, [STEP](#) cited a survey of its members, all of which had experienced a cancelled house sale due to probate delays. Out of the members, 94% had observed damage to the reputation of probate practitioners, and 64% had seen several cases of financial hardship for beneficiaries.

It was discovered that probate registry errors were the main cause of stopped and delayed applications, as well as inexperienced staff and poor communication also contributing to unnecessary delays.

The parliamentary committee's inquiry was interrupted by the 2024 general election, but the newly set up committee continued to press the Ministry of Justice for answers. At the end of January this year, Sarah Sackman, the Courts and Legal Services Minister, wrote to the committee acknowledging and detailing the projects failures.

Ms Sackman's [letter](#) noted that the probate service was the first to go through HM Courts and Tribunals Service's (HMCTS) reform program, and many mistakes were made in the way this was done. She then went on to list four principle mistakes, these being...

Centralisation in one location

Staff being centralized into one geographical location led to the loss of experienced probate staff. In light of this, hub sites were introduced to provide greater flexibility.

Temporary workforce

The service relied on a flexible workforce with many of the staff on fixed-term contracts (FTC) which proved to be challenging. As a result of this, previous FTC have been converted to permanent, retaining experienced staff.

Impact of 'minimal viable product'

The digital service was launched as a 'minimal viable product', unable to cover all types of applications, so some had to be handled manually, creating bottle necks of work. Now, HMCTS have applied lessons learned to other reform projects.

Lack of robust training and knowledge transfer

The service was launched without a proper training programme, which, combined with the rapid pace of the changes, meant staff did not fully understand them. This was exacerbated by regular system enhancements during the introduction of the system, using up the available training hours.

Ms Sackman said: 'All staff have now been trained on Grant of Probate applications and over 50% are trained on further journey types. Capability training will continue in 2025 and will remain an ongoing activity for the probate service in the future.'

Ms Sackman said: 'We have assessed our workforce plans in relation to demand and have adjusted the allocation of staff to match the demand and level of service we need to deliver. For 2025/26 planning we have adjusted headcount plans to ensure we are able to maintain the improved work state and meet the forecasted demand.'

She stated that: '2025 will focus on maintaining performance and pro-actively addressing stopped cases and preventing cases becoming dormant.'

The probate service is continuing with surgery appointments to unblock any stopped cases and will actively work through cases and contact the practitioner.

New notifications will be released before the end of the financial year which will provide users with more clarity on the progress of their cases and will remind the user if they have not provided the extra information that has been requested. This will prevent the stopped cases open caseload from growing and eventually ending up as a dormant case.'

Jo Summer TEP, STEP spokeswoman commented that 'Good progress has been made to reduce probate waiting times, but we urge the Government to take up our recommendations to tackle the ongoing probate backlog'. She then went on to say 'HMCTS statistics show 27,241 cases are currently stopped or are awaiting documentation and 2,171 families are still waiting over a year for probate to be granted.'

Comment

According to HMCTS, [probate waiting times have halved](#). However, only time will tell whether we see any further reduction in the time taken to process applications.

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