



Andy Slaughter MP
Chair of the Justice Select Committee
House of Commons
London
SW1A 0AA

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29 January 2025

Dear Andy,

JUSTICE SELECT COMMITTEE – PROBATE INQUIRY

Thank you for the letter dated 23 May 2024 following the Committee's evidence session on Tuesday 21 May with my predecessor Mike Freer.

This response addresses the five points from the letter relating to the cause of the delays and the impact on users of the probate service and highlights the further improvements to the service since the committee session.

Recent Performance

The last 12 months (December 2023 to November 2024) have seen another year of above average receipts (297,850). This follows from the previous high level of applications in the preceding two years. The latest published HMCTS management information (MI) shows that the number of grants being issued has also increased, with the last 12 months (December 2023 to November 2024) having the largest volume (329,749) of grants issued, by some margin, since statistics were first published.

The number of disposals has outstripped receipts for 15 months in a row since September 2023, which has resulted in the open caseload reducing by almost 60% from its peak in August 2023 (97,670) to 42,152 at the end of November 2024. This is the lowest it has been since we started publishing the data in February 2023.

Published HMCTS MI shows the average length of time taken for a grant of probate (digital and paper) following receipt of the documents required was 5 weeks in November 2024, down from 14 weeks in November 2023. In addition, November 2024 saw the lowest timeliness for paper applications in over 12 months, at just over 12 weeks. This compares with timeliness of 22 weeks in November 2023.

The Government remains committed to improving the probate service for everyone that needs to use it. Applying for probate can come at a challenging time and the service is relied upon by a range of bereaved executors, probate professionals and charities.

Cause for the delays

- 1. The committee suggest HMCTS conduct and publish a lessons learned exercise to ensure that the causes of failure are fully understood across the department.***

The Probate service was the first service to go through HMCTS's Reform Programme, and the project closed in Spring 2020. Since the digital service was launched, over 1.5 million probate applications have been processed with around 80% of applications currently made digitally.

The service has faced many challenges since it was reformed. Some of those, such as the impact of the pandemic, were out of the control of HMCTS. However, mistakes were made in the way in which we reformed and numerous lessons have been learned as a result. A lessons learned exercise was conducted and below is summary of the main findings:

Centralisation in one location - HMCTS recognises that centralising staff into one geographical location led to the loss of experienced probate staff. In light of this, the operating model for HMCTS as a whole was adjusted to introduce hub sites to provide greater flexibility to deliver national services at a variety of physical locations.

Temporary Workforce - HMCTS recognises that the reliance on a flexible workforce was a challenge. We have stabilised our workforce over the last 16 months by permanently retaining experienced probate staff, converting previous fixed term contracts (FTC) to permanent status, and consolidating our leadership team. This has supported our efforts to grow capability which is otherwise challenging with an inconsistent workforce.

Impact of Minimal Viable Product – The end-to-end digital service did not cover all application types and introduced some hand offs where the service could not be completed digitally which in turn created bottle necks of work. HMCTS have applied the lessons learned from this to other reform projects and our testing and roll out of newly reformed services is done differently as a result.

Lack of robust training and knowledge transfer – HMCTS did not have a mechanism to deliver comprehensive training when new functionality was released. The pace of the changes was rapid, and staff did not fully understand them. Knowledge transfer and upskilling was hampered by regular system enhancements using up the available training hours. All staff are now 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.

Impact

- 2. The committee urge HMCTS to work with the department for Levelling Up, Housing and Communities, Local Authorities and Empty Home Stakeholders to consider what HMCTS can do to ensure that probate is not a cause of care home debt or empty homes either due to delays at the Probate Registry or due to unintentional incentives for properties to remain Class F.***

After the JSC hearing HMCTS was provided with one example of an empty property going through the probate process. The delay in this case was found to be unrelated to probate delays and was due to a family dispute. Due to the lack of any other evidence HMCTS has closed this action but we remain open to working with other government departments and have held

meetings with the Land Registry to support fraud investigations and working on sharing data with Cabinet Office, Public Sector Fraud Authority, National Fraud Initiative.

3. I note that Ms Measures stated that if the probate service is not recovered by autumn, “we will adjust our resource if we need to” and “if the demand wasn’t being met, we would look at that [the number of registrars] again”. Given the depth and breadth of the impacts on the bereaved, charities, care services and local authorities, I trust there is sufficient evidence of the benefits of a well-functioning Probate Registry for additional resource to be acquired if needed.

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 2025/2026 planning we have adjusted headcount plans to ensure we are able to maintain the improved work state and meet the forecasted demand.

4. I suggest publishing the performance targets you expect the Probate Registry to achieve would suggest that you are indeed confident that the Probate Registry can meet the expected standards.

Since the 2019 reforms, HMCTS has significantly increased the range of performance data which is available publicly by both MoJ and HMCTS and now include more granular data on types of application received and grants issued. In addition, average grant processing time (timeliness) is published and can be interrogated using a range of filters.

A full time series of Management Information back to Q3 2019 is published in the Family Court Statistics Quarterly <https://www.gov.uk/government/collections/family-court-statistics-quarterly> and currently covers the period up to December 2023.

More recent management information published by HMCTS (which does not go through the same level of quality assurance and analysis as the Family Court Statistics Quarterly) provides waiting time information up to September 2023

<https://www.gov.uk/government/collections/hmcts-management-information>

Internally, the case management system enables HMCTS to track more performance metrics than was available previously. This data is updated daily and includes workload, timeliness and aggregate information about application progress and is used to inform more granular performance management activity.

HMCTS will continue to work to extract data internally that will help drive improvements and for probate 2023 started publishing the open caseload to provide stakeholders with a more granular view including number of stopped cases in the open caseload, workable caseload which in November 2024 is the lowest total since being published, 10,439.

HMCTS will continue to use the ‘HMCTS Information bulletin’ to inform users of any changes to performance or timeliness.

HMCTS is working towards delivering the commitments from the 2021 HMCTS Data Strategy which includes expanding the range of data that are published about the services it delivers.

5. Given that even those organisations working most closely with HMCTS, such as the Law Society and the Institute of Legacy Management, feel that data sharing and publishing should be improved, I suggest that HMCTS engage more, listen harder and publish as much data as is practicable as frequently as feasible. The charitable, legal and financial sectors have significant analysis capability.

The probate service has continued to work closely with the Law Society, ILM and other stakeholders before and since the JSC evidence hearing.

HMCTS continue to meet regularly with the ILM and support their forecasting models by providing MI in advance of publishing and our long-term view for the next 12 months.

In the last 12 months HMCTS have undertaken five user groups, seven probate practitioner face to face meetings, 10 charity and trust and estates meetings, 26 HMRC/ HMCTS meetings, four public webinars, two lunch and learn charity/ staff sessions and a regional engagement meeting in Newcastle.

Stakeholders include Probate User Groups, Law Society Representatives, Society of Trust and Estate Practitioners representatives, Probate Practitioners, representative charities bodies, Trusts and Estate bodies and His Majesty's Revenue and Customs. We run wider stakeholder webinars and are reintroducing regional face to face stakeholder forums following a successful event in Newcastle.

In April 2024, HMCTS piloted the running of case surgeries to offer appointments to users on some of our older cases to work collaboratively to secure resolution to cases struggling to get through the system.

The surgeries pilot highlighted that some cases were stuck in the system because of misunderstanding. An example of this is with applications where the gross value for Inheritance Tax (IHT) exceeds the threshold and the deceased had a late spouse, we ask applicants to either submit form IHT400 or confirm that they are claiming the unused nil-rate band (NRB). This process often confuses applicants, and they frequently make errors. Recognising the benefits of a conversation, surgeries are now a regular part of our service delivery and remain a focus for 2025 as HMCTS proactively look to reduce the amount of stopped cases in the open caseload.

Going forward HMCTS will be introducing:

- More local probate professionals open sessions across the wider registries – four dates were filled during December 2024, with four regions visited and we have agreed new dates for 2025.
- GOV.UK being updated to provide more comprehensive guidance for probate professionals.
- Probate staff attending more charities lunch and learn events.
- Senior leaders are also engaging in and delivering sessions at professional sector events.

In respect of the specific point regarding publishing more data, HMCTS will use the engagement sessions described above to identify if there are further areas where they can make more data available to benefit the range of users and stakeholders for the Probate service. This is in line with the commitments HMCTS have made in the HMCTS Data Strategy and will build on the commitment described above to further develop internal data sources.

6. Other concerns

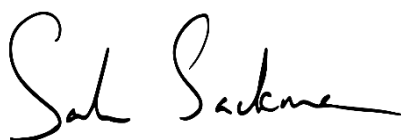
Dormant cases – while 2024 was focussed on recovery, 2025 will focus on maintaining performance and pro-actively addressing stopped cases and preventing cases becoming dormant.

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.

Finally, I would like to thank the committee for their focus on the probate service and constructive feedback. The level of service and overall waiting times were not acceptable and I hope the committee can see the significant improvements which have made before and since the inquiry. I want to reiterate my department's ongoing commitment to maintain and deliver a high quality service.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Sarah Sackman', with a stylized, flowing script.

SARAH SACKMAN KC MP
Minister Of State