

PERSONAL FINANCE

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your
money
your
lifestyle

On these pages, we often encourage people to write up a will. This is a way to protect your loved ones and to ensure that your estate is concluded timely. However, administration challenges at both the Master of the High Court's office and the banks have delayed the winding up of deceased estates, even when there is a valid will.

A delay in the conclusion of an estate leads to additional costs, apart from families' inability to access the funds or finalise their financial situation.

As Reana Steyn, the ombud for banking services explains, as long as the deceased person's bank account remains open, banks will continue to debit these charges and the interest on the outstanding debts will continue to accrue.

The executor of the estate also earns a fee of 6% on any interest or income earned while winding up the estate. This is over and above the executor's fee of up to 3.5% of the value of the estate.

Currently, even with the delays due to the Master's office, fiduciary specialists say they are winding up estates within six to nine months, if there are no complications. Yet there are complaints about estates that have not been finalised two to four years later.

One reader wrote: "I did have a will with my ex-husband who passed on in 2016. Unfortunately, we appointed a bank as an executor. To this day, the estate is still not finalised. It means the will was really useless."

Complaints on social media highlight how frustrated people have become, especially with the banks. One of the biggest complaints is that the banks are not responsive and do not communicate effectively.

As is so often the case, there are various factors leading to the delays in winding up estates and an opportunity for finger-pointing:

- **The Master's office is a mess:** After years of complaints by industry bodies such as the Fiduciary Institute of Southern African (Fisa) and the Law Society of SA, last month Justice Minister Ronald Lamola finally acknowledged the crisis at the Master's office.

- **Lamola announced a rescue plan to deal with the backlogs and improve digitisation, which includes an online registration system for the deceased estates. The plan is currently being piloted in five provinces.**

- **The banks are not keeping up with administration:** Earlier this year, we wrote about the delays by the banks in providing the executors with the basic information they require to conclude estates.

- **These delays eventually led to Fisa publicly calling on the banks to investigate. Between 2021 and last year, the Ombudsman for Banking Services had seen a 67% increase in complaints relating to the administration of deceased estate accounts. It noted that, while there may be other issues at play, the bank delays were one of them.**

- **Dependency on third parties to deliver documents and verify information:** Nedbank says the executor relies on feedback from various stakeholders,



Complaints flood in on concluding deceased estates

Maya Fisher-French explains what is delaying the processes, especially banks, Master's office

ESTATE LESS THAN R250 000

If the estate is worth less than R250 000, you do not require an executor. A family member can administer the winding up of the estate.

Any documents, including the will, would have to be lodged at the Master of the High Court's office which, in turn, would appoint a family member or creditor to

finalise the estate. Sadly, there are reports of scam artists operating at the Master's office, who impersonate the employees.

They then use the documents provided by the family to make themselves executors and steal funds. Make sure you are dealing with the correct person and take down their name and details.

including the heirs, the SA Revenue Service, the Master's offices and the motor licensing bureaus. There are several complexities, including load shedding and obtaining certificates of balances from financial institutions (including banks). All these may result in the delays, depending on the factors at play.

- **Not enough liquidity in the estate:** Absa Trust says the delays can occur if there is insufficient liquidity to cover all the liabilities. This means that the assets may need to be converted into cash, or the beneficiaries might be required to contribute funds.

- **While all these are key factors, it does appear there are more complaints about the banks when it comes to concluding estates. Communication is a major issue.**

- **Former bank employees told City Press that the banks were facing a crisis due to the high staff turnover in the trust departments. This meant estate matters were handed over to new staff who did not know the history of the case. Smaller value estates are being passed on to external attorneys who were not always communicative.**

- **In response to queries from City Press, the banks acknowledged that their trust departments have been under pressure. They said they were working to improve their systems.**

- **Absa Trust says it is not experiencing disruptive turnover**

since the Covid-19 pandemic ended and the unit is able to deal with natural staff attrition.

For low value estates, the banks may outsource the administration to specialised law firms. There is no hard and fast rule, but, if the estate is less than R1 million to R2 million, there is a good chance it will be outsourced.

The family members may find themselves dealing with an attorney. The bank remains the appointed executor and if there is a communication issue, the client should address the complaint to the bank. **(See: Where to complain)**

The finalisation of a deceased estate matters to those who are left behind and the delays can leave them financially vulnerable. More should be done to expedite the administrative process. The chaos of the Master's office is unacceptable and, while there are real challenges in obtaining the relevant documents, an executor's job is to chase the paperwork and get the job done. That is what they are paid for.

TIPS TO CONSIDER

- When writing up your will, engage with a fiduciary expert who knows your estate. Alternatively, work with a financial adviser who is familiar with your finances.

- You can also nominate a trusted family member as an executor who, in turn, can appoint a fiduciary expert to wind up the estate.

- Update your will when you experience life changes such as a marriage, divorce or the birth of children.

- Make sure your paperwork is up to date and that information can be easily found. Write up a spreadsheet of all your assets and bank accounts.

- Make sure you have a life cover policy. You can use life cover to create liquidity to wind up the estate and cover any debt. You can also have life cover that pays the beneficiary directly, so they do not have to wait for the estate to be wound up in order for them to pay the bills.

- You have the right to negotiate the executor's fees. While the maximum fee is 3.5% of the estate value (excluding VAT), a simple estate could be wound up for 2%. This can be stipulated in the will.