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# Staff shortages and solicitor errors contributing to probate grant delays

Flawed applications and lack of personnel in Probate Office a concern for some homebuyers

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Up to 60 per cent of all new probate applications have to be returned to solicitors because of errors in papers submitted, including no valid title in the oath.

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An error by solicitors in probate applications and a lack of staff in probate offices are contributing to delays in issuing probate grants, causing anxiety for house buyers and sellers.

An approximate four-month wait for a grant of probate from the Dublin probate office, which deals with half of applications nationally, applies only to error-free applications with a considerably longer waiting time when applications contain errors.

A grant of probate is required to give lawful authority to deal with a deceased person’s estate.

Aspiring homebuyers with three-month mortgage approval who get to the stage of sale agreed only to find probate was not obtained before the property was put up for sale are particularly affected by the delay.

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A Courts Service spokesman said the waiting time for personal applications in probate matters is 11 weeks from the initial request for appointment.

### **16 weeks**

For new solicitor applications which are error-free, the waiting time is approximately 16 weeks, he said. This waiting time has increased by three-four weeks in recent months due to a number of retirements in the probate office but new staff have since joined, he said.

“It is worth noting that up to 60 per cent of applications are returned to solicitors due to errors. This significant error rate slows up the processing of cases.”

Properties are being placed on the market for sale and contracts exchanged in circumstances “where the solicitor should know that a grant of probate is required”, he noted.

All parties to a sale transaction should be made aware by their legal representatives if a grant of probate is required and the likely waiting times, including the longer waiting times for applications with errors, he stressed.

In a statement to The Irish Times, the Law Society said: “The probate process becomes relevant to almost every person in our country at least once in their lives and solicitors are very conscious that it will generally be at a time of grief, stress and upheaval. Consequently, solicitors work hard to make the process as smooth as possible.



“The Probate Office works diligently to do the same, but has long been stymied in this respect by under-resourcing. Despite being one of the highest fee-earning offices within the Courts Service, it has been understaffed for a generation, leading to lengthy processing times for error-free applications.”

The society said it was again asking the Courts Service and the Government to increase the resourcing and staffing of the probate office “to appropriate levels”.

### **Loss of staff**

John Glennon, an experienced former probate officer who recently left the Dublin office to take up the position of deputy master of the High Court, said the waiting time for probate, if all necessary elements are in place, would likely be two weeks.

Waiting time in the Dublin office has ranged from 26 weeks in 2017/2018, six-eight weeks in 2018/2021 and 16-18 weeks now, he said.

The current waiting time has “increased dramatically” for reasons including the loss of experienced staff, a problem throughout the public service and affecting probate offices since early this year.

There should have been five staff assessing papers in the Dublin office this year but it currently has four, with a fifth due to start shortly, he said. A significant loss in productivity when new staff are being trained is the immediate cause for the “dramatic increase” in waiting times at present, he said.

A 20 per cent increase in the volume of work coming to the Dublin office has contributed to an overall increase in the waiting times in the capital. The work is mainly coming from district probate registries which also have staffing issues, leading to more solicitors coming to the Dublin office, thus “flooding” that office and increasing waiting times.

Mr Glennon said 50-60 per cent of all new applications have to be returned to solicitors because of errors in papers submitted, including no valid title in

the oath.

He previously raised concerns with the Law Society probate committee about such errors and has addressed solicitors on the topic at “numerous” seminars. More than half of the waiting period, he estimates, “is due to the poor quality of papers submitted to the probate offices around the country”.

An informed source with experience of the probate office agreed. “The problem is that some solicitors treat probate like the NCT [National Car Test]. They lob in applications without checking the paperwork and expect the office to sort out their mistakes.”



**Mary Carolan**

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Law Society Courts Service

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