



Statement by the Chief Justice in relation to probate applications

The Court is aware of concerns raised by members of the legal profession and the Law Society in relation to delays in the processing of probate and letters of administration applications. These concerns have been given close attention by the Chief Judge in Equity, the Principal Registrar, the Acting Prothonotary, the Registrar in Probate and me. Several productive meetings and discussions have also been conducted with the President and Chief Executive Officer of the Law Society.

In response to the increasing volume of probate applications – there has been an increase of some 13.5% between 2020 and 2024 – and the growing demands on registry resources, increased funding has been secured from the Department of Communities and Justice to create two new Deputy Registrar positions. These roles have now been filled, and the appointees are contributing to a concerted effort by the Court to reduce the backlog of applications. In addition, the Chief Judge in Equity has personally addressed more than 150 complex probate applications, the vast majority of which have now been resolved. This has freed up registrars and deputy registrars to address more straightforward applications.

It should be appreciated that these efforts are taking place alongside a broader increase in the volume of work undertaken by registrars of the Court, who are heavily engaged in a growing number of court-annexed mediations in the family provision area, as well as discharging their other responsibilities which include managing lists, hearing special fixtures, conducting examinations under the *Corporations Act 2001* (Cth) and *Criminal Assets Recovery Act 1990* (NSW), determining chamber applications, and sitting as duty registrars.

These competing demands necessarily affect the speed at which probate applications can be processed. Nevertheless, the Court's recent initiatives (including the appointment of two new Deputy Registrars and the targeted resolution of complex applications) have already led to improved processing times for fresh applications, reducing the average time of processing as at the time of writing by 25% from 83 business days to 60 days. There is still scope for improvement in processing times and this is being closely monitored.

It is important for the profession to be aware, however, that delays in the processing of applications are influenced by a number of factors beyond the Court's control. Two important factors are:

- Incomplete applications filed by practitioners which often fail to provide the basic required application for a grant of probate. This results in what may otherwise be unnecessary requisitions. Common issues include:
 - Failure to certify death certificates in accordance with the *Supreme Court Rules 1970* (NSW);
 - Improperly taken affidavits (that is, not confirming whether a deponent is taking an oath or affirmation);
 - Failure to provide evidence in support of copy will applications or filing photocopies of wills instead of the original will; and
 - Misreading the terms of a will or a misunderstanding who has standing to apply for a grant.

- Delays in practitioners responding to requisitions. As of June 2025, over 2,000 requisitions remained unanswered, with hundreds outstanding for more than two months. These delays contribute directly to the overall time it takes for applications to be granted. To reduce waiting times, answers to requisitions are now being considered by the Court within 5-10 working days of receipt and practitioners are encouraged to file responses as soon as practicable.

The Court is also working closely with the President and Chief Executive Officer of the Law Society of New South Wales to address issues of delay. This ongoing process includes:

- reviewing requisition practices;
- developing further educational initiatives for practitioners; and
- exploring improvements to the online probate system.

In relation to urgent probate applications, there has been relatively little take up by members of the profession of the facility, without any additional charge, to seek expeditious processing of probate application in urgent cases. On average, the Court receives up to 10 requests for expedition per week, which if granted, are attended to within days of the request. Further information about the process for seeking expedition is located on the Supreme Court website at: <https://supremecourt.nsw.gov.au/wills-probate.html>.

The Court remains committed to improving processing times for probate applications in line with available resources, competing demands and timely responses to requisitions.

I am grateful to the Chief Judge in Equity, the Principal Registrar, the Acting Prothonotary and the Registrar in Probate for their ongoing assistance in relation to the processing of probate applications as well as to the President and Chief Executive Officer of the Law Society.

The Honourable A. S. Bell
Chief Justice of New South Wales
Supreme Court of New South Wales

21 July 2025