



Title  
Research

# Entitlement

Winter 2019-2020

## Equal Opportunities for Chartered Legal Executives

### Plus:

- The currency question - overcoming the challenges of **exchange rate volatility** by TorFX
- **Contingency fee agreements** for unknown beneficiaries, the risks to Personal Representatives and how it can and has gone wrong
- Locating the missing root: working with specialist genealogists to conduct **family tree research**

Quarterly insight from the genealogy and asset repatriation specialists

[www.titleresearch.com](http://www.titleresearch.com)

# Entitlement

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# Welcome to Title Research's quarterly news digest – **Entitlement.**

We're kicking off 2020 with a brand new edition of Entitlement featuring interesting articles from leading legal professionals.

In this issue, we welcome an article from Matthew Foster, President of the Chartered Institute of Legal Executives. Matthew explores how Chartered Legal Executives should be given equal opportunities to ensure the legal market remains diverse, competitive and dynamic.

We are also pleased to feature a discussion about the challenges of exchange rate volatility from multi-award winning currency provider, TorFX.

Additionally, we take a look at how contingency fee agreements for unknown beneficiaries can present risks to Personal Representatives. We provide examples of how it can and has gone wrong.

This edition also discusses the public's growing interest in ancestry and genealogy and the benefits of working with an established genealogist firm.

As always, we continue to support our solicitor clients and travel all across the country to deliver presentations to private client teams. The topics include:

- Mitigating risk in estate administration
- The estate administration timeline
- Intestacy and estate administration

If you'd like to request a presentation at your firm, please contact Title Research.

Title Research offers fast, fixed fee access to specialist genealogical research and asset repatriation services. The services

available to you include dealing with North American and UK shareholdings, locating missing beneficiaries, reconstructing family trees and much more.

Our Client Services Team are the first point of contact to discuss how we can help accelerate the estate administration process. Call +44 (0) 345 87 27 600 or email [info@titleresearch.com](mailto:info@titleresearch.com) for more information.

We hope you enjoy this edition of Entitlement!

**Anthony Allsopp**

Head of Business



# Giving Chartered Legal Executives equality of opportunity is vital to ensuring a diverse, competitive and dynamic legal market

By **Matthew Foster**, President of the [Chartered Institute of Legal Executives](#)

Title Research are proud to be a CILEx industry partner

I was brought up on a council estate in Stockport and left school at 16 with little idea of what to do next. Without the education and support I have had from the Chartered Institute of Legal Executives (CILEx), I would never have been able to become a lawyer.

My story is not unusual. CILEx offers an alternative route into the legal profession that proves attractive to those from a range of different backgrounds, allowing them to study whilst working, accommodating career gaps, different educational backgrounds and offering a more financially viable path into the law.



CILEx opens up access to the profession to those who might otherwise have felt a career in law was not an option for them and this explains why the membership is so diverse – 75% are women, 14% are from a BAME background, 82% of members do not have parents who went to university and just 6% attended a private school.

Chartered Legal Executives have a vital part to play in ensuring we have a diverse, competitive and dynamic legal market that serves both the public and business.

In my year as President I am working to see CILEx lobby even more vociferously to change out-of-date legislative anomalies that needlessly prevent our members being able to act in the same way as other lawyers, effectively denying equality of opportunity within the legal profession. Competition requires a level playing field, and so we are committed to working in the public interest to remove any outdated restrictions that unjustly



prevent Chartered Legal Executives from offering a full range of services to consumers.

For many years CILEx has been chipping away at rules that unjustifiably discriminate against our members. There has been a great deal of success – we achieved chartered status in 2012 and our members include business owners, partners in law firms, heads of department and supervisors of teams of lawyers. They can be advocates in open court and may be appointed coroners and judges. There are now four Chartered Legal Executives sitting as

judges, as well as a number of solicitors who initially qualified as Chartered Legal Executives. Amongst some in the legal profession, the perception of Chartered Legal Executives remains out of step with the reality but there are many progressive firms out there who no longer differentiate between solicitors and Chartered Legal Executives and value the different

experiences, perspectives and specialisms our members bring.

CILEx lawyers operate on a par with solicitors in their specialist areas, doing the same jobs day in day out. We are not the same as solicitors. We are proud to be different. Our learning begins in the workplace from day one, we generally specialise

early on in our careers and undertake qualifications that focus on what we need to know to support our clients, rather than on knowledge that we may never use. These differences are a positive in a diverse and competitive legal market and should not hold Chartered Legal Executives back from being able to provide legal services across the board.

## There are four areas in which we can work together across the profession to achieve a level playing field that will benefit consumers and society as a whole:



### Clearing out technical anomalies

Chartered Legal Executives can do anything solicitors can do when employed by solicitors' firms or local authorities, but still cannot as individual professionals. Sorting these out doesn't change current practice in any way but either fixes a technicality or resolves an anomaly to confirm and confer authority as of right rather than through supplication.



### International recognition

Unlike other lawyers, Chartered Legal Executives are unrecognised in the EU Lawyer Recognition Directive. This unreasonably restricts their ability to offer services to other EU countries.



### Change the law

We want to see a change to laws that preclude Chartered Legal Executives from the provision of certain services. As an example, members who have been Associate Prosecutors for a long time are barred from progression in their careers to Crown Prosecutors, and all because of a complete lack of clarity and an inconsistent approach to recognising their qualifications in legislation that has remained unchanged for decades. The Ministry of Justice acknowledges that this needs to be rectified but has so far failed to act.



### Opening up the judiciary

Currently, Chartered Legal Executives are prevented from applying for judicial roles above district judge level (circuit judge or higher). Outdated views and professional snobbery are preventing the government from making a quick and easy change to the eligibility criteria for lawyers who can submit applications – all at a time when including our members would address oft-expressed concerns about diversity in the judiciary.

# The currency question - overcoming the challenges of exchange rate volatility

By TorFX

The currency market is known for its volatility, with exchange rates in constant flux as markets respond to economic and political developments.

This volatility has been increasingly pronounced this year, as currency traders wrestled with heightened geopolitical uncertainty.

Undeniable focal points include **Brexit** and a **general election** in the UK, Italy's budget spat with the EU and the ongoing fallout caused by the tit-for-tat tariffs between the US and China.

All this, plus some shaky economic data from most major economies, has kept investors on their toes this year.

Looking at the GBP/USD exchange rate, we've seen the pairing trade in a range between \$1.20 and \$1.33 in 2019, with daily swings of up to 2% not uncommon.

The GBP/EUR exchange rate has also experienced notable movement over the last 12 months, with the pairing moving between lows of €1.06 and highs of €1.17.

**This 11 cent movement would mean the difference of €11,000 on a £100,000 currency transfer.**

**As we step into 2020 there are plenty of events which could inspire further currency volatility.**

Much like 2019, Brexit and US-China trade uncertainty will remain two major motivating factors.

The outcome of the UK general election will have a significant impact on how Brexit progresses in the year ahead, and developments in the US-China trade negotiations will be crucial for President Donald Trump as the US election looms.

Monetary policy will also be in focus, with central banks expected to step up their monetary easing in 2020 in response to a slowing global economy, with the Bank of England (BoE) and European Central Bank (ECB) being two banks to keep an eye on.



## 2020 currency volatility continued...

The BoE has kept policy unchanged this year as it awaited more clarity on Brexit, but it may be forced to cut rates in early 2020 regardless of whether Brexit comes to a resolution as external and internal pressures grow.

Meanwhile, an increasingly fragile outlook in the Eurozone is likely to keep the pressure on the ECB to introduce an even more accommodative monetary policy, especially as member states remain reluctant to answer the bank's calls for more fiscal stimulus.

There is also the fear that some of the world's largest economies may potentially fall into a recession next year, with the US, UK and Germany some of those thought to be at risk.

With all this going on, exchange rates are likely to remain erratic throughout the coming year.



### Title Research Currency Transfers with TorFX:

- Excellent exchange rates
- Fee-free transfers
- Range of transfer options
- Rate notifications

### What does this mean?

Such currency movements can have a big impact when moving funds overseas, and can potentially result in an estate being worth less than expected when repatriated.

Fortunately, **Title Research currency transfers** – powered by TorFX – can help you make you mitigate the risks posed by exchange rate volatility.

For example, you can use a forward contract to fix an exchange rate up to two years in advance – protecting you from sudden market movements – or target an exchange rate higher than the current market level with a limit order.

Additionally, if you have a target exchange rate in mind, you can use a rate alert. Simply set the rate you want to achieve and you'll be notified by text or email if the market moves to that level.

If you're repatriating an estate from overseas, protect your transfer from exchange rate volatility and [find out how much you could save](#).

# Contingency fee agreements for unknown beneficiaries, the risks to Personal Representatives and how it can and has gone wrong

By Anthony Allsopp, Head of Business at Title Research

**When dealing with an intestacy matter, has your client ever opted to prefer a contingency fee agreement for unknown beneficiaries?**

When quoting to resolve an intestacy matter at Title Research, we will start by diagnosing what information is already known about the family and the likely class of kin we will need to research to fully establish who should benefit under the presiding intestacy rules in place.

We know from experience approximately how many hours this will take and can recommend a working budget on this basis in-line with our average hourly rate, perhaps in a similar way to how a solicitor would quote for legal fees when administering an estate.



In some instances, it is possible to agree a fixed-fee for similar work. Both options provide complete transparency from the outset and are legitimate estate costs that can be charged to the residue as an administration expense. The *Evans v Westcombe* case in 1999 references this.

A contingency fee arrangement is an alternative method positioned by “heir hunters” whereby the Personal Representative (PR) is provided with an option that seeks to transfer the cost of establishing all entitled kin to unknown beneficiaries only, thus ‘protecting’ the inheritance of those beneficiaries already known. This is often the case when the PR is familiar and in touch with one side of a family (maternal or paternal) over the other.

The PR would instruct the heir hunter to undertake work to establish unknown beneficiaries with seemingly no direct cost, the heir hunter in-turn contracting

directly with those beneficiaries for a proportion of their entitlement. At Title Research we have seen percentage agreements ranging from 10-40%, and the average fee we see comes out at 21%.

On the face of it, it’s a persuasive option – protect the amount due to those beneficiaries already known by avoiding direct research costs that won’t be deducted from the estate.

## **So who pays?**

Depending on the percentage agreement, unknown beneficiaries could end up with far less. Consider a beneficiary due to receive £1,000 in inheritance agreeing a 25% share to an heir hunter – a £250 fee to be found. On balance, this could represent good value. However, increase the inheritance due to £20,000 (a £5,000 fee) and suddenly the landscape of fairness has altered as the nature of the work involved to locate the beneficiary remains the same.



## What are the risks?

As we know, it is the PRs fiduciary responsibility to where possible, maximise the estate value for all beneficiaries. Those beneficiaries who deem themselves unfairly penalised could seek to file complaint with the PR on this basis and indeed we are aware of many matters where this had been the case.

At Title Research we have been openly opposed to this fee structure for over 20 years and as such, offer free advice and guidance on our website. We have been approached for help on many occasions, often resulting in referrals to contentious practitioners we work with regularly.

In terms of best practice, we would always recommend referring to the **STEP** guidance note on genealogy fees to familiarise yourself with the common charging methodologies prevalent in the industry.

Probate genealogy is an unregulated industry and does not fall under the purview of the main legal regulators, such as the SRA, STEP or CLC and therefore there is no route to the Legal Ombudsman for beneficiaries seeking complaint against heir hunters.

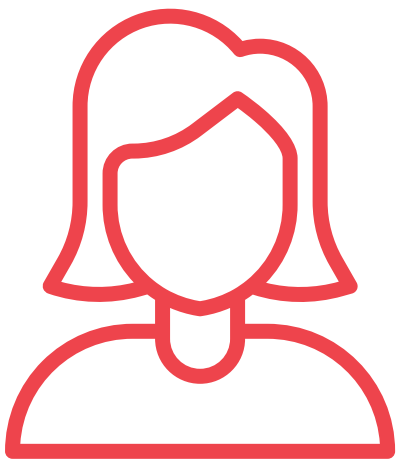
## Mrs S: A Case Study

Mrs S administered an intestate estate in 2013 in the knowledge that a well-known heir hunter had contracted with several beneficiaries for a percentage of their entitlement.

Having sought legal advice on how to distribute, Mrs S was advised not to settle fees with the heir hunter directly without letters of authority from each beneficiary. Mrs S distributed the estate accordingly on the understanding that the beneficiaries would settle their contractual obligations directly but was subsequently subjected to threats of debt recovery from the heir hunter on the basis that their contract with the beneficiaries included the following clause “I authorise and instruct the Personal Representative of the Deceased to pay your [the beneficiary] fee plus VAT to you direct by deduction from the inheritance”.

This matter remains on-going and will likely result in further legal costs to the detriment of the estate to fully resolve.

## Mrs M's Heir Hunters Story



We were contacted by a member of the public (Mrs M) in November 2018, as she had been approached by a firm of 'heir hunters'.

According to her information, she was a beneficiary to an estate advertised by the Government Legal Department

as potentially having no next of kin. The heir hunter concerned was asking Mrs M to sign a commission agreement allowing them to be paid 30% of her inheritance as a finder's fee.

Mrs M was not told the identity of the Deceased, and the heir hunter claimed to not know the value of the estate.

Due to the limited information available to us, our advice to Mrs M was to negotiate a lower percentage fee with the heir hunter, which she did and believed she had settled for 25%.

**In October this year, Mrs M contacted us again to let us know how the matter had played out.**

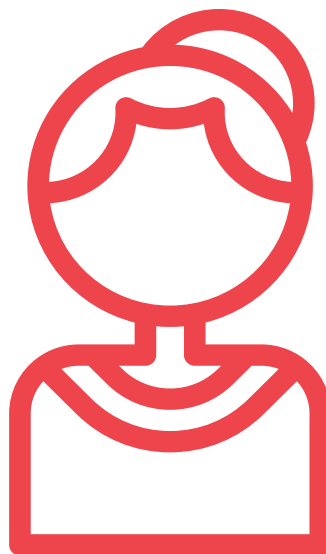
She had received a cheque from the heir hunter for £147 along with a selection of paperwork which included an indemnity to be signed by her.

This indemnity discharged the heir hunter of all liability relating to the estate, and passed this liability direct to Mrs M. It transpired that the estate was very modest (approx. £1,300) and that the heir hunter had made several deductions, including a 30% finder's fee (not the 25% agreed), costs for certificates, secure couriers, estate administration fees as well as fees paid to the Government Legal Department, for administering the estate.

It seemed that the heir hunter had either not located all the rightful heirs, or had not secured agreements with them, as Mrs M was expected to account to all the intestate beneficiaries as part of the indemnity she was asked to sign.

Mrs M opted not to sign the indemnity as she did not wish to take on the risk that the estate had been administered properly. Unfortunately, she felt that due to the low value of the sums involved she was unable to pursue this with the heir hunter concerned.

This case study highlights the practices of some heir hunters, who not only pursue percentage fees from beneficiaries, but at the point of distribution they then try and pass liability for any errors, or misdistribution on to unknowing members of the public.



## Closing thoughts on contingency fee arrangements...

Beneficiaries entitled to inheritance resulting from intestacy have a legal right to their entitlement regardless of whether they are known to the PR or not and the cost associated to locate them is a legitimate estate cost. PRs opting for a contingency fee arrangement should be fully aware of the associated costs involved to ensure that fees accrued by beneficiaries are not punitive and likely to result in future claim and equally, that they are not taking on liability for these fees nor future claims from beneficiaries not located by the heir hunter.

At Title Research we have a collaborative approach to the work we conduct and are happy to liaise with all parties involved to ensure full transparency.

If you're interested in finding out more about Title Research's genealogical research services, call our **Client Services Team** on **0345 87 27 600** or email [info@titleresearch.com](mailto:info@titleresearch.com).

# Locating the missing root: working with specialist genealogists to conduct family tree research

## By Title Research

The public's growing interest in ancestry and genealogy has seen a rise in new genealogist firms coming into the market, providing services for the curious to uncover more about their lineage.

In fact, in early 2019, it was reported that over 26 million people took an at-home ancestry test. These tests help an individual understand their genetic make-up and are one small element of the broader genealogy piece. This data also indicates that the demand to understand one's heritage doesn't look to be slowing any time soon and new genealogist firms could continue to appear.

The challenge for professionals is knowing who is best to turn to when seeking support for researching a family tree or intestacy matter. As leading family tree researchers, UK solicitors and their clients are in good hands with Title Research. In this article, we discuss the benefits of working with an established genealogist firm and some of the intriguing personal stories we've uncovered along the way.

Title Research has been operating for more than 50 years and during this time, we have assisted thousands of solicitors by resolving their complex estate administration matters with our specialist services.

Our research isn't limited to UK matters; we can locate missing or unknown people in over 60 jurisdictions.

Putting this into perspective, we were asked to locate an Australian man who had disappeared without a trace more than a decade ago. He was logged as a missing person with the Police and Ministry of Defence in Australia and his sister appealed for him to come forward through national media, but their efforts were left unanswered.

We were instructed to locate him after his grandmother left a legacy in her Will. We uncovered that he moved to Beijing, China in 2004 to work on the Olympics but his phone, laptop and possessions were stolen upon his arrival. Due to the strict internet controls in China, he was unable to look up any information and was completely cut off from his family as a result.



Our Technical Manager, Simon Barber, commented on this case: “This particular case was quite a unique one, even for our team of experienced genealogists. We were pleased to be able to find the man in question and reunite him with his family”.

Another example that highlights our years of experience and specialist services is when we were instructed to locate the rightful heirs for a USD \$19 million Nazi-stolen art masterpiece from World War II.

The artwork was tied up in litigation for years but once the dispute was resolved, we were instructed. We conducted UK and global family tree research to locate and distribute the funds to the rightful beneficiaries.

This was certainly not the first time we've assisted on an estate that has felt the effects of World War II. We were asked to create the family tree for a lady who died intestate. The

Deceased was born in eastern Poland in 1911 and the family were of the Jewish faith. Ultimately, research was required in Australia, Austria, France, Guatemala, Israel, Italy, Poland, Spain, UK and USA with seven potential heirs located.

Of these seven, two had avoided transport to Auschwitz Concentration Camp with the help of Oskar Schindler, and I am sure many of you will have seen the film Schindler's List which tells this story.

In all of these cases, we never worked on a commission or contingency basis. Our role is simple, to prove entitlement – no matter how complex or lengthy the process may be – and assist in the distribution of the estate.

## We are proud to offer transparent and fair pricing to our clients.

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To find out more about our specialist genealogical services, contact a member of our Client Services Team by calling 0345 87 27 600 or email [info@titleresearch.com](mailto:info@titleresearch.com).





# Specialist support for estate administration

**At Title Research, we provide trusted genealogical research and asset repatriation services to legal professionals.**

The experience we've gained over five decades means that we know where to find the people you need to trace and how to navigate even the most complex international processes. We believe it's our task to remove uncertainty so that you can complete your job with confidence.

A commitment to clarity runs through everything we do at Title Research and helps us provide legal professionals with the best possible service. Our fees are transparent, our processes straightforward and our reporting unambiguous.

Everything we do is designed to streamline estate administration, to take the effort out of locating the correct people or assets, and to mitigate against the risk of future dispute or complications.

- Locating missing beneficiaries
- Reconstructing family trees
- FamilyChecker™
- Probate valuation and verification
- Missing beneficiary insurance
- Worldwide bankruptcy searches
- Locating Wills, addresses and missing documents
- UK share sales with a nine-day turnaround
- Obtaining overseas grants and resealing UK grants overseas
- Dealing with North American assets
- Administering foreign shares and funds
- Research for a Statutory Will

Our proven expertise can help you with any estate administration challenge – at home or overseas. Call one of our team today on **+44 (0) 345 87 27 600** to find out more.

**Ensuring accuracy, eliminating risk**



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