Neutral Citation Number: [2026] EWHC 2090 (SCCO)
Case No: SC-2025-APP-001002

**IN THE HIGH COURT OF JUSTICE**
**SENIOR COURTS COSTS OFFICE**

Thomas More Building, Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 5/08/2026

**Before** :

**COSTS JUDGE LEONARD**

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**Between :**

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|---|---|
| **Royal Holloway and Bedford New College** | **Claimant** |
| **- and -** | |
| **QLaw Legal Services Limited** | **Defendant** |

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**Rachael Pymm** for the **Claimant**
**Neil Quantick** for the **Defendant**

Hearing date: 27 April 2026

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# Approved Judgment

This judgment was handed down remotely at 1.30 pm on 5 August 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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COSTS JUDGE LEONARD

**Costs Judge Leonard:**

1. The Claimant is the residuary beneficiary of the estate of Ms Margaret Anne Selby, who died on 20 November 2022. Ms Selby's will was dated 12 March 2020.

2. In her will, Ms Selby appointed as her executors her friend Patricia Malcher and "the directors at the date of my death in the company of Quantick Daley Solicitors (a trading division of QLaw Legal Services Ltd)…"

3. As the name indicates, 'Quantick Daley Solicitors' was not itself a company nor, on the evidence, an independent entity of any kind. As the term "a trading division" indicates, 'Quantick Daley Solicitors' was a trading name for the Defendant.

4. It follows that the reference in Ms Selby's will to "the directors… of Quantick Daley Solicitors" was a reference to the directors of the Defendant. Mr Neil Quantick (the sole director of the Defendant, as at 20 November 2022 and the present day) has accepted and undertaken the role of joint executor of Ms Selby's estate.

5. The will incorporated no express provision for the Defendant's directors to render professional charges for acting as executors of Ms Selby's estate (in short, a 'charging clause').

6. Between 24 January 2024 and 26 July 2024, the Defendant rendered to the estate a series of bills totalling £53,187.60 for Mr Quantick's services as professional executor. On 5 September 2025 the Claimant applied, under section 71(3) of the Solicitors Act 1974, for an order for the assessment of those bills.

7. On 18 February 2026, I made an order for the assessment of the bills, and directed that the Defendant's right to receive remuneration for its professional services to the estate of the Deceased be heard as a preliminary issue in the assessment. This is my judgment on that issue.

**Legislation and Authorities**

8. I will refer to the pertinent provisions, for present purposes, of the Trustees Act 2000. Section 29(2):

> '(2) … a trustee who—
>
> (a) acts in a professional capacity, but
>
> (b) is not a trust corporation, a trustee of a charitable trust or a sole trustee,
>
> is entitled to receive reasonable remuneration out of the trust funds for any services that he provides to or on behalf of the trust if each other trustee has agreed in writing that he may be remunerated for the services.'

9. Section 28(5):

> 'For the purposes of this Part, a trustee acts in a professional capacity if he acts in the course of a profession or business which consists of or includes the provision of services in connection with—

> (a) the management or administration of trusts generally or a particular kind of trust, or
>
> (b) any particular aspect of the management or administration of trusts generally or a particular kind of trust,
>
> and the services he provides to or on behalf of the trust fall within that description.'

10. Section 35(1):

> 'Subject to the following provisions of this section, this Act applies in relation to a personal representative administering an estate according to the law as it applies to a trustee carrying out a trust for beneficiaries.'

11. Section 39(1) provides that "personal representative" has the same meaning as at section 68 of the Trustee Act 1925;

> '…the executor, original or by representation, or administrator for the time being of a deceased person …'

12. In *Shepherd & Co Solicitors v Brealey* [2024] EWCA Civ 303, the Court of Appeal explained the policy behind, and the origins of, these legislative provisions. The paragraph references below are from that judgment of Sir Nicolas Patten.

13. At paragraphs 14, 19 and 20:

> '14 … The provisions of section 29 are the result of the recommendations contained in the report of the Law Commission on Trustees' Powers and Duties (Law Com No 260) which was published in 1999…
>
> 19… In its report the Law Commission accepted that there were strong arguments in favour of remunerating professionally qualified trustees who might otherwise refuse to take on the burden of administering an estate or would simply appoint professional agents to do so potentially at a greater cost. The Law Commission however rejected a proposal to introduce a general statutory charging clause as a default power because of the need for transparency and the prevention of abuse. It was thought that such a default power would encroach too far upon the general principle that a trustee should not profit from his or her trust and that a settlor (and by extension a testator) needed to be aware that a professional trustee would be remunerated and on what terms. The balance between these considerations and the desirability of encouraging professionals to act as trustees was struck by what is now the requirement for express agreement between trustees or personal representatives contained in section 29(2) .
>
> 20. One of the issues expressly touched on in the report is whether some kind of implied power could override any inference to be drawn from the fact that a settlor or testator had included some provision in the form of a gift or legacy to reward the trustee or executor for acting as such or had simply made no provision (as in this case) for the trustees or executors to be remunerated for their services. To avoid difficulties of this kind the Law Commission

> rejected the inclusion of an implied power and recommended instead that a professionally qualified trustee or executor could be remunerated for their services if there was agreement by the trustees or executors generally following a consideration of the relevant circumstances. This would obviate the need to draw inferences from the other provisions of the settlement or the will and would allow the trustees or executors to override the absence of any charging clause…'

14. *Shepherd & Co Solicitors v Brealey* concerned the right to remuneration of a solicitor who had acted in a professional capacity as the executor of an estate. The case had striking factual similarities to this one.

15. As in this case, a testator's will had been prepared by the same solicitors (the appellant firm) who were subsequently instructed to administer the estate. As in this case, the will appointed an lay person (the testator's brother, Mr Hayward) as executor along with solicitor executors (the partners in the appellant firm at the time of the deceased's death).

16. As in this case, the will contained no charging clause entitling the deceased's solicitor executors to charge for their professional services as executors.

17. The solicitor executor who undertook the administration of the estate in *Shepherd & Co Solicitors v Brealey* was Mr Shepherd of the appellant firm. Not all of his costs were in dispute. As to those that were disputed, the court found (paragraph 14) that in the absence of a charging clause, the appellant firm could only rely either on the provisions of section 29 of the Trustee Act 2000 or, in the alternative, on the court exercising its inherent jurisdiction to permit Mr Shepherd to be remunerated out of the estate for his time and services.

18. The appellant firm was unable to rely upon section 29. That was notwithstanding the fact that Mr Hayward, as lay executor, had instructed Mr Shepherd, signed retainer documentation and approved bills. Even if it could be said that the retainer documentation in question constituted Mr Hayward's written agreement to Mr Shepherd's remuneration for the disputed work, Mr Smyth, another partner in the appellant firm at the time of the testator's death and who had in consequence also been appointed as an executor, had had not entered into any such agreement. The requirement of section 29 for written agreement from all the executors had not, accordingly, been met. The fact that Mr Smyth had played no part in the administration of the estate made no difference (paragraphs 25 and 28).

19. As to the exercise of the court's inherent jurisdiction, the costs judge who had heard the case at first instance had declined to exercise that jurisdiction so as to permit the remuneration of Mr Shepherd for the disputed work. The court undertook (at paragraphs 30-40) a detailed analysis of the nature and principles of the jurisdiction before finding that there was no ground for setting aside the costs judge's decision.

## The Facts of This Case

20. On 19 December 2019 Katie Grimstone, a paralegal working for the Defendant, wrote to Ms Selby confirming that the Defendant had been instructed to assist Ms Selby in updating her will. Under the heading "Executors/trustees" Ms Grimstone's letter read:

> '… this is the people that administer your will for you, get probate, pay legacies, etc. It's quite a job, and not to be taken lightly! You'd like for Patricia to act as executor alongside the directors at Quanticks. I explained that as professional executors we will charge. You confirmed you are happy with this. As solicitors we are regulated and insured.'

21. On 23 December 2019, Ms Malcher sent an email to Ms Grimstone indicating that she had passed the Defendant's "terms of business" to Ms Selby. This would appear to have been a reference to the letter of 19 December. I have not seen a copy of any other correspondence predating Ms Selby's death.

22. Almost exactly a year later, on 20 December 2022, Mr Quantick sent an email to Ms Malcher (the reference to "Mollie" is to Mollie Lamie, a paralegal employed by the Defendant):

> 'I am so sorry that you feel concerned about progress – I had hoped that we had covered everything in detail about how things will progress, and equally who needs to do what between us. I hope that this email will further clarify things and critically leave you feeling a little more positive. Rest assured that nothing is being delayed – by Qlaw or otherwise…
>
> As we discussed when you came in, we need the final death certificate to be able to 'start' the administration of the estate – ie contact everyone and obtain date of death valuations. As promised, Mollie has prepped what she can in terms of letters ready to go but we need the final death certificate to be able to get those formal initial requests sent out. Please therefore let us have the final certificate as soon as you have it…
>
> We are appointed jointly to deal with the administration of the estate so it is important that we liaise constructively and positively. Please funnell everything via me so that we can co-ordinate things (you mentioned for example the Beaumont Care fee). It is much better, quicker, and cost effective that you provide all paperwork and we simply sort the admin. It will be MUCH MORE complicated, expensive to the estate, and leave scope for problems if instead we try to guide you on what needs to be done and when. As I had hoped I had reassured you – that's very much our role in all of this to do the leg work, and to remove any worry from you…
>
> I can give you a clearer idea on fees once we have established the estate. You will appreciate that until that time, there is no clarity on what needs to be done...'

23. On 23 January 2023, Ms Malcher sent an email to Ms Lamie enclosing some scanned documentation and reminding the Defendant that she had still not received a costs estimate.

24. On 27 January 2023, Ms Lamie sent an email to Ms Malcher:

> ‘I’m not sure if you have received anything about costs yet, so below I have outlined the costs and I will get an official update/terms of business out as soon as I can, but for now please see how we charge below.’

25. The email went on to describe an hourly rate charging structure, with details of the hourly rates charged for fee earners of varying seniority (ranging from £350 for Mr Quantick to £135 for Ms Lamie), the work for which charges would be rendered, and the way in which charges were structured.

26. The email concluded:

> ‘We review our hourly rates from time to time. If they are to change, we will inform you in advance.
>
> If at any point during the administration of the estate you require an update of the current cost position then please let us know. Because of the nature of the administration of the estate it will be ongoing for some months. We expect therefore to provide you with bills periodically. These will ordinarily be met from estate funds.
>
> If you have any problems then please let me know.’

27. On the evidence, the promised ‘official update/terms of business’ were never sent to Ms Malcher, although she did respond on 27 January 2023 to Ms Lamie’s email, thanking her for ‘the assurances and the costs information’.

28. I understand that probate was granted on 4 January 2024. On 23 January 2024, Mr Quantick sent an email to the Claimant, as residuary beneficiary:

> ‘You will see that, subject to the payment of various cash legacies, the college is the main residuary beneficiary… As a matter of good practice, it is our policy to share with residuary beneficiaries (at the outset) the basis upon which are charges are calculated. If you have any queries on this, you should please raise them now. Our fees will be charged on the usual ‘time plus value’ basis. Our time costs are just that, ie time spent by legal and support staff. My own hourly rate is £350 (+VAT). I work closely with a Solicitor Apprentice (Mollie Lamy). Her current hourly rate is £170 (+VAT). Other members of the team may help out from time to time. The value element will be charged at 2% of the gross estate (+VAT). Combined, I anticipate that our total fees should not exceed £30,000 (+VAT). This will be to deal with everything from start to finish…’

29. I have not, to date, seen anything to indicate that Ms Malcher was ever informed of the changes to the Defendant’s hourly rates between January 2023 and January 2024, although that may simply be because such evidence was considered irrelevant for the purposes of this preliminary issue.

30. I should mention however that one of the matters in contention between the parties is that the “value” charge (billed at £18,592.20 on 24 April 2024) falls outside the charging structure notified to Ms Malcher in January 2023, and brings the Defendant’s

charges to a total well in excess of the maximum £30,000 plus VAT estimated by Mr Quantick in his email to the Claimant of 23 January 2024.

**Submissions**

31. The Claimant's case is straightforward. In the absence of a charging clause in Ms Selby's will, and compliance with section 29(2) of the Trustee Act 2000, there is no mechanism whereby the Defendant can claim the right to render charges to Ms Selby's estate for Mr Quantick's services as a professional executor.

32. Mr Quantick, for the Defendant, has produced two witness statements in the course of these proceedings. The first responded to the Claimant's application for an order of the assessment of the Defendant's bills. The second addresses the preliminary issue.

33. Mr Quantick relies upon an argument the effect that the Trustee Act 2000 requires 'proper authorisation' and that the Defendant has such authorisation.

34. He refers in that respect to the notification to Ms Selby, in the Defendant's letter of 19 December 2023, that the directors of the Defendant would charge for their services as professional executors. He argues that this constituted an agreement with Ms Selby to the effect that the Defendant would be entitled to render such charges in the administration of the estate. He says that Ms Malcher, in forwarding the letter of 19 December 2023 to Ms Selby, would have been aware of that agreement. He also refers to the costs correspondence between Ms Lamie and Ms Malcher in January 2023.

**Conclusions**

35. None of the matters referred to by Mr Quantick establish that the Defendant has a right to charge Ms Selby's estate for Mr Quantick's services as a professional executor.

36. The retainer evidenced by Defendant's letter of 19 December 2023 was limited to assisting Mrs Selby in preparing her new will. At its highest the letter offers hearsay evidence to the effect that, on or about 19 December 2023, Ms Selby was willing to prepare a will which would permit professional executors to charge for their services.

37. The principle referred to by the Court of Appeal at paragraph 14 of Sir Nicolas Patten's judgment in *Shepherd & Co Solicitors v Brealey* is a fundamental one. Subject to limited exceptions (which insofar as pertinent are addressed in this judgment), in the absence of a charging clause in a will, an executor appointed by that will is not entitled to be remunerated other than for out of pocket expenses (see *Williams, Mortimer and Sunnucks - Executors, Administrators and Probate,* 22nd edition, at paragraphs 47.02 and 47.04).

38. In short, Ms Selby's executors were appointed by her will, not by the Defendant's letter of 19 December 2019. Had Ms Selby conferred upon her executors a right to charge for their services she would have done so by making a provision to that effect in her will, and she did not. Such a right could not have been conferred upon them by the Defendant's letter of 19 December 2019, nor by the discussion to which it referred.

39. As to whether Ms Malcher, as Mr Quantick's only co-executor, agreed in writing, as required by Section 29(2) of the Trustee Act 2000, that Mr Quantick be remunerated for his professional services, it seems to me that she did not.

40. For present purposes, the contractual principles that would normally assist in establishing the existence and terms of a solicitor's retainer are not to the point. Nor, incidentally, is the Claimant's argument to the effect that Ms Malcher did not give "informed consent", which is not a requirement of section 29(2).

41. The question is, rather, whether Ms Malcher agreed in writing, within the meaning of section 29(2), that Mr Quantick could be remunerated for his professional services in acting as an executor of Ms Selby's estate.

42. Ms Malcher's de facto acquiescence to the Defendant's rendering charges to Ms Selby's estate for such services could not constitute agreement sufficient to satisfy section 29(2) of the Trustee Act 2000. Her request for an estimate was no more than evidence of that de facto acquiescence.

43. As for the exchange of correspondence between Ms Lamie and Ms Malcher in January 2023, Ms Lambie sent costs information to Ms Malcher and Ms Malcher acknowledged receipt. That does not, in my view, constitute a written agreement on the part of Ms Malcher, and it would be inconsistent with the plain meaning and the underlying purpose of section 29(2) of the Trustee Act 2000 to allow the Defendant to rely upon an implied agreement on Ms Malcher's part.

44. For all those reasons, my conclusion is that the Defendant has no right to charge Ms Selby's estate for Mr Quantick's services as professional executor.

**Next Steps**

45. The preliminary issue addressed by the judgment, as set out in the court's order of Defendant's right to receive remuneration for his professional services, is limited to whether the Defendant has a right to receive remuneration for Mr Quantick's professional services. For that reason I have not addressed here the questions of whether, and to what extent, the court should exercise its discretion to permit the Defendant to do so.

46. Whether to make an application to that effect is a matter for the Defendant. It is not out of the question that any such application should be considered in the light of an assessment of what the Defendant has actually done for the estate, but that is a matter for discussion as and when such application is made. If it is not made, these proceedings can be concluded with an order to the effect that the Defendant receive no remuneration from Ms Selby's estate beyond the reimbursement of out of pocket expenses.

47. I will arrange a directions hearing in which all matters consequent on this judgment can be addressed, and the necessary directions can be given to move these proceedings toward a conclusion.