

HOW TO CHOOSE THE EXECUTOR OF YOUR ESTATE

An executor is the person named in a will to carry out the wishes of a person after they die. Picking the right person or persons will help ensure that there are no problems down the line.

Executors: What do they do and who should they be?

An important question clients' ask is 'who should be the executor of my estate?'

This is an important question which everyone should think about when putting together their Will. Being an executor can sometimes be difficult, so picking the right person or persons will ensure that there are no further problems down the line.

What does an executor do?

An executor is the person named in a will to carry out the wishes of a person after they die. Executors work out exactly what the deceased person owned and owed at the date of death, obtain a Grant of Probate (if required), collate in the assets, pay debts and expenses and then distribute following the terms of the Will.

The duties include:

- Notifying all beneficiaries named in the will.
- Managing the property or goods left in the will, take care of any business interests, safeguard any income, invest money not needed immediately, collect any valuables, insure all property.
- Sending a copy of the death certificate to all institutions that hold money for you, and making sure that accounts are frozen.
- Opening a bank account for the estate.
- Valuing the estate. The estate includes cash, business interests, personal effects, securities, real estate, property, debts due, debts owing.
- Collecting in all money, including bank accounts, savings, pensions, investments, insurance policies and anything else that is owed.
- Calculating Income Tax, Capital Gains and Inheritance Tax and making those payments. Complete inheritance tax returns.
- Obtaining authority to administer the estate: Apply for a grant of probate or letters of administration if necessary.
- Paying out any other money that is owed, such as bills, loans, credit cards and debts.
- Deciding the right time to sell your house so that the beneficiaries get as much money as possible. Consider whether to appropriate assets before selling.
- Paying any debts or expenses, such as solicitors' and probate fees.
- Distributing the leftover money to the beneficiaries in accordance with the provisions of the Will.

Who can be an executor?

The basic requirements are that anyone aged 18 or above, who is not bankrupt and has no criminal convictions can be an executor, and there is no rule against beneficiaries being your executors. In fact, many people choose their spouse, civil partner or their children to be their executor.

Executors: What do they do and who should they be?

Executors can be individuals, professionals or a trust corporation. The client needs to take into account availability, suitability, willingness to act, potential conflicts or disputes, the possibility of predeceasing, the size nature and location of the estate and the complexity of the burden placed on the executors.

How many executors should I appoint?

You don't have to pick just one; you can appoint up to four executors, but bear in mind they have to act jointly (unless we specify that they may act by majority) so it may not be practical to appoint too many people. It's a good idea to choose two or three executors in case one of them dies before you do. You can also include substitute executors who can step in if other executors are not willing or able to take on the role.

Who would make a good Executor of a Will?

They will be faced with managing a lot of paperwork and dealing with legal or financial issues, so it makes sense to choose someone who would be able to handle those responsibilities. You can select executors who have different skills, such as one who has legal and financial knowledge, and another who can deal with your beneficiaries and notifying institutions, dividing the workload between them.

If you do appoint more than one executor, think about whether they will be able to work together to prevent any disagreements, and create grief and conflict within the family.

Before you name your executors make sure you have spoken to them first so that you know they're happy to take on the responsibility.

Should I appoint a family member/s as executor/s?

If you have a family member who you trust and who have the skills to take on the job, then it's a good idea to appoint them. It's very common for people to choose a child, niece or nephew or grandchild to do the job. If you want to name your spouse keep in mind that they will be dealing with grief and may not be in the best position to take on the extra responsibility of being an executor. Appointing another family member will take away that burden. You can still appoint them alongside another executor if you would like them to be involved in the process.

Should I appoint a professional to help alongside a family member?

Another way to reduce the burden is to appoint a professional such as a solicitor to work alongside a family member. It's a sensible decision as they have specialist knowledge and are familiar with the job, and can help resolve issues quickly and professionally. This is especially important if you have a complicated estate or property abroad. Another benefit of using a professional is that they can act impartially helping to prevent any conflict between family members.

What if an executor decides they don't want to do act?

If an executor decides they aren't able to deal with the estate themselves, they can ask a solicitor to assist them. Or if they don't want to take on the role altogether than they can renounce probate, but only if they have not already been involved in the administration. In this situation, either the remaining executors can continue the job, or a substitute executor can step in. If there are no Executors available, then the beneficiaries may act as administrators.

Executors: What do they do and who should they be?

Executors are personally liable.

You should not forget that taking on the role of executor comes with personal liability. An executor should only hand over estate assets once all debts, expenses and tax have been paid.