

A Guide to Executors

A Will is made up of three essential parties.

The testator is the person who is making the will.

The beneficiaries are the people who will benefit from the proceeds of the estate.

Finally, there are the executors. These are the nominated people the testator entrusts to carry out their wishes and to make decisions regarding your estate when they are gone.

This guide will give you advice on who to choose as your executors and also the main responsibilities of this position.

Who to choose...

At the end of the day it is up to the testator to choose whomever they like to be executors but there are a few things we do recommend you think about when selecting.

Willingness to act

The first thing to consider would be whether the people you choose would be actually willing to take up the role when the time comes. Executors do have the option of opting out of the role if they are named and your reserves will then step up. So we do recommend asking the people you are considering first whether they feel comfortable being named. We, at Asset Harbour, do put ourselves down as a last reserve executor so your chosen loved ones have the security of us being involved in the process as much as they need.

Age

We recommend considering friends or family roughly the same age or younger as it lowers the risk of your chosen executors predeceasing you. Choosing your parents may not always be the best option as peoples parents are predominately a good few years older than their children, thus increasing the risk of your executors predeceasing you.

We are not saying do not name your parents as executors because they can still be considered but we do suggest naming reserves. By doing this you are maximising the likelihood of someone you trust dealing with your affairs.

Trust

This may seem like an obvious point to bring up but having complete faith in your executors is essential. These nominated personnel will be in charge of adhering to your wishes exactly how you want so having faith in them is important. Nominating someone who is responsible financially is vital because you need to have peace of mind that your finances are in secure hands who will handle the situation responsibly.

The main duties of the executors

The law says an executor should carry out his or her task 'with due diligence'. Executors who act wrongly may have to pay compensation to beneficiaries out of their own money. For this reason, it is wise to protect yourself by having the professional help and advice of a solicitor.

The law expects executors:

- to put the interests of the beneficiaries before their own interests
- not make a profit from their position unless authorised
- to scrupulously account to the beneficiaries for all the money passing through their hands
- to act reasonably and prudently in relation to the estate property.

The process of the executors.

- **Locate the testators will** – as soon as you appoint your executors always let them know where your Will is, because loss of the original deed is not seen as a valid excuse and you will die intestate if this is the case.
- **Register the death of the deceased** – this will mean obtaining copies of the death certificate. Multiple copies may be required to arrange the funeral and release certain funds such as insurance policies and bank accounts. Only copies obtained from the 'Registry of Marriage and Death' will be regarded as original copies and accepted.
- **Arrange the funeral** – the directions of the testator are usually written within the Will or with an additional 'Expression of Wishes'. The executors are not legally bound to fulfil these wishes but most will try and uphold them as best as possible. If a pre-paid funeral plan has been purchased then the testator should inform the executors of this and the whereabouts of the relevant documents.
- **Open a Personal Representatives Bank Account** – this is a specific bank account where all proceeds from the estate and any money used to pay Inheritance Tax will be paid into and from.
- **Inform all relevant people** – the executor will have to contact all the necessary people and organisations such as building societies, doctors, insurance companies, local authorities and pension schemes.
- **Plan for any debts needing to be paid** – this will include organising payment of any outstanding debts such as mortgages, credit cards, Inheritance Tax, loans and overdrafts from the estate proceeds. These debts can be taken care of by insurance policies written into Trust to ensure the full value of the estate is upheld.
- **Apply for a Grant of Probate** – this can be done by going to the government website www.gov.uk/wills-probate-inheritance. You will have to send off a Grant for Probate form, an Inheritance Tax form, the original copy of the death certificate, the original will deed and two copies plus any codicils, and finally a cheque for £105 to cover the application fee made payable to HM Courts & Tribunals Service. Note: if the estate value is under £5,000 then no application fee is required.
- **Swear an Oath** – you will need to go to your local probate office and swear an oath that the information you are giving is correct to the best of your knowledge. The probate grant will be sent out to you ten days after you have sworn the oath.
- **Divide the estate** – when the grant of probate comes through, the executors can then divide the estate as per the instructions in the Will. The executor should make every beneficiary sign a written acknowledgement of the gift they are receiving to ensure there is no risk of being called up for acting dishonestly. Administering an estate can take between four to six months, sometimes less for simpler estates. When the sale of a property is involved the process can take up to two years. When probate comes through, the executors can then divide the estate as per the instructions in the Will. The executor should make every beneficiary sign a written acknowledgement of the gift they are receiving to ensure there is no risk of being called up for acting dishonestly.