

Guide to what an executor is and does

► Introduction

There are three essential parties in a will. The testator makes the Will, the beneficiaries receive the proceeds of the Estate and the executors are entrusted to carry out the testator's wishes and make decisions regarding the Estate after the testator is gone. This guide deals with how to choose executors and what their duties are.

► Choosing executors

The first consideration for a testator is whether the people selected are willing to accept the responsibility when the time comes. They can decline, whereupon your reserve choices are called upon.

Next, it is recommended that you choose friends or family members who are the same age or younger in order to reduce the chance that they will predecease you. For this reason, naming your parents is not advised. However, if you do so, it is suggested that you also name reserves to maximise the likelihood that there is someone trustworthy to handle your affairs.

Finally, and this may seem obvious, you should select people you trust and who have demonstrated financial responsibility in their own lives. This will help ensure they adhere to your wishes and that you will have peace of mind that your finances are in good hands.

Duties of an executor

The law requires that an executor will carry out the duties 'with due diligence'. Those who do not do so may have to compensate the beneficiaries with their own money. It is, therefore, a wise precaution to seek the help and advice of a solicitor. Executors are expected by law to:

- put the interests of the beneficiaries first, ahead of their own
- not profit from their position, unless so authorised
- to account to the beneficiaries for all the money they deal with
- to act prudently and reasonably with the property of the Estate



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► The Process

The executors should be informed as soon as possible as to the location of the Will. Loss of the original deed will result in the testator dying intestate.

The Steps

- Register the death. Obtain copies of the death certificate from (and only from) the 'Registry of Marriage and Death'. Multiple copies may be required for the funeral and the release of certain insurance policies and bank account funds.
- The testator may write directions regarding the funeral in the Will or in a separate 'Memorandum of Wishes', though the executors are not legally bound to fulfill them. The testator should inform the executors if the funeral has been pre-paid and the whereabouts of relevant documents.
- Set up a Personal Representatives Bank Account, a specific account to handle the estate proceeds and any money used to pay inheritance tax.
- Notify all the necessary people and organisations, e.g. doctors, insurance companies, local authorities, pension schemes, and building societies.
- Plan for payment of debts, which can include mortgages, credit cards, inheritance tax, loans and overdrafts from the Estate proceeds. These can be dealt with by insurance policies written into trust to ensure the full value of the estate is upheld.
- Apply for a Grant of Probate at the government website www.gov.uk/wills-probate-inheritance. A Grant for Probate form, an inheritance tax form, an original copy of the death certificate, the original Will Deed and two copies, along with any codicils must be sent off. In addition, if the estate value is £5,000 or more, a cheque of £105 must be issued, payable to HM Courts & Tribunal Service, to cover the application fee.
- Go to the local probate office and swear an oath that the information you are giving is correct to the best of your knowledge. Ten days later, the probate grant will be sent out to you.
- When the grant of probate arrives, the executors can divide the Estate, following the instructions in the Will. Ensure every beneficiary signs a written acknowledgement of the gift they are receiving to avoid future legal trouble. It can take up to four to six months to administer a Will, although the sale of a property can extend this to up to two years.

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