



What do I need to know when acting as an Executor?



The role of Executor carries great responsibility and can involve a lot of work. Our expert team is here to guide you through the process.

What is an Executor?

An Executor is the person legally appointed to deal with someone's affairs after they have died, including the distribution of the estate in line with the wishes of the deceased's Will. The position comes with both responsibilities and liabilities and you will be expected to undertake a wide range of tasks.

I am a named Executor in a Will for someone who has recently passed away - what should I do?

It is important that you understand your responsibilities both legally and financially when dealing with the assets and liabilities of the deceased, and how you interact and deal with the beneficiaries. Your first steps will be to obtain a copy of the Will and assemble as full and detailed a picture as possible of the extent and value of the estate.

What are my responsibilities?

We have outlined the main areas of responsibility and some of the pitfalls to watch out for overleaf. It is important that Executors do not expose themselves to unnecessary risk because they can be held *personally liable* if any mistakes are made in the administration.

What happens if I make an error?

Where Executors have made mistakes or have not carried out their duties properly, either intentionally or unintentionally, it is known as a *breach of trust*. It is important to avoid this happening because beneficiaries or creditors of the estate can make a personal claim against the Executor. Any financial recompense would come directly from the Executor's own pocket and cannot be claimed from the estate.

Contact us for peace of mind

Executors are legally bound to carry out their duties properly and discharging those duties can take months or even years, depending on the complexity of the deceased's estate. At Coodes we can help you navigate through the process and part of our job is making sure that you are not put at risk of claims from beneficiaries or creditors – a trend that is sadly on the increase. To find out more about how we can help, please talk to our team about a free, no obligation consultation. We can offer fixed fee services to deal with all or some of the administration, and agree a budget that suits both you and the estate.



Our Offices

We are ideally placed with most of our offices conveniently located in town centres.

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Executors should always be aware of the following responsibilities and potential pitfalls:

- An Executor must bring under his or her control all of the assets and other property belonging to the deceased.
- Executors must acquaint themselves with the nature and circumstances of the deceased's property and be fully conversant with the terms of the Will and what those terms mean.
- The Executors must carry out the lawful directions of the Will. Once they have sworn the probate papers they will be bound by the terms of the Will.
- The Executors must always act impartially i.e. they must not favour one beneficiary over another.
- If there is a **Trust** element in the Will they must ensure that they invest the estate's funds in appropriate investments.
- The Executors must, at all times, maintain an appropriate standard of care in the management of the estate. They must administer the estate within the powers given to them by the Will and do so honestly and in the interests of the beneficiaries.
- The Executors must pay the right persons. It is important that all necessary checks are made of the beneficiaries or creditors of the estate.
- The Executors must *promptly* inform all beneficiaries of their position i.e whether they are a *legatee* or a *residuary beneficiary*. This should not be done at the end of the administration.
- The Executors must always supply the beneficiaries with information relevant to the administration of the estate and the Executors should always be able to provide accounts to the beneficiaries with the up to date position of the administration.
- An Executor must not (unless formally authorised) enter into any form of transaction with the estate's assets where they are personally involved.

Glossary

Assets - something of monetary value which could include, for example; property, bank accounts and investments

Beneficiaries - individuals who are to benefit under the terms of the Will

Residuary beneficiary - an individual who is to benefit from the residuary estate (the net estate after debts, liabilities and other gifts have been paid)

Probate - depending on context – the administration of an estate

Legatee beneficiary - someone entitled to a fixed gift under the terms of the Will

Trust - an arrangement whereby a person or persons (trustees) hold property for the good of one or more beneficiaries under prescribed terms

Creditors - a person or company who is owed money by the estate

If as an Executor you have any questions about your duties or any potential breach of trust then please do not hesitate to contact a member of the Coodes' Wills and Probate team.

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