

## CHOOSING EXECUTORS & TRUSTEES

When making a Will the choice of executors and trustees is a vitally important one. When someone dies, the executors will be responsible for administering the estate, and will often also act as trustees of any ongoing trusts created by the Will. Trustees are appointed to administer trusts (including those created by a Will). It is therefore essential to make the right decision about who to appoint.

### Role and responsibilities of executors

The executors' role is a wide one as they are responsible for administering the deceased person's estate and acting in the best interests of the beneficiaries named in the Will. Their duties will include:

- establishing what assets there are in the estate,
- making tax returns to HM Revenue and Customs (HMRC) and paying any tax due,
- applying for a Grant of Probate,
- collecting in and realising assets,
- paying debts, funeral expenses and any administration liabilities,
- paying legacies,
- accounting to the beneficiaries; and
- distributing the estate.

The larger the estate, or the more diverse the nature of the assets within it, then the more complicated the administration and the greater the level of skill required by the executors.

The ideal executor is:

- trusted completely by the testator and their family,
- organised and has the time available to devote to what can be a time-consuming task; and
- is financially literate

Executors do not have to be experts on estate administration as professionals can be employed by them to deal with the day-to-day tasks, although the executors will remain responsible for decisions taken on advice from specialists.

If the estate contains assets such as a business, then it would be beneficial for the executors to have some knowledge of the business and the sector in which it operates.

### How many executors should there be?

The number of executors will depend on individual circumstances. For example, it is common in straightforward estates where the entire estate is passing to a surviving spouse or partner for that person to be the sole executor. In this situation, it is, however, essential to have a substitute executor(s) in case the partner dies first or is unable or unwilling to act.

It should be noted that a beneficiary of an estate can also be an executor. However, it is important to consider whether the beneficiary/executor might be put in a difficult position if a conflict of interest arose between him and the other beneficiaries.

If there is an ongoing trust created by the Will, then it is necessary to have at least two executors. The relevant rules provide that a maximum of four executors can apply for a Grant of Probate.

However many executors are appointed, it is important to choose people who can work together harmoniously. All decisions will need to be unanimous, and if the executors have diametrically opposed views this can lead to deadlock, and the estate administration becoming far more prolonged than necessary.

### **Appointment of professional executors**

It may be advisable to consider the appointment of a professional executor in some circumstances. If the estate is straightforward, there is no element of dispute and there are unlikely to be ongoing trusts, then a professional executor may be unnecessary, as the lay executors can choose to enlist professional help in the administration of the estate.

However, there are a number of other situations where the appointment of a professional executor could prove beneficial, although it should be remembered that it is never compulsory. The appointment of a professional executor could be advisable for example, in an estate with complicated assets (such as a business), where there is any element of contention, where there is the likelihood of ongoing trusts or the testator simply feels that there are insufficient non-professional candidates for the role. This is something that we will discuss in detail with you so that a decision can be made in the best interests of you and your estate depending on your circumstances.

Our fees for dealing with the administration of your estate would be calculated by estimating the likely time taken to administer the estate. If it is decided to appoint a professional executor, we will provide you with clear guidance as to the likely fee to enable you to make a fully informed decision.

### **How can GL Law help you?**

We have specialist lawyers who will take time to get to know you in order to provide you with advice tailored to your specific needs and wishes.

Full and transparent information about our fees structure will be provided at the outset, and the basis of our charging agreed before we begin work.

**For more information or to speak to a solicitor please contact us by calling 0117 906 9400 or email [hello@gl.law](mailto:hello@gl.law)**

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