



Choosing the Right Executor for Your Will

In these unprecedented times it can be difficult to plan for the future. However, it appears that many people are using the 'lockdown' period to make or update their wills, given the surge in will-making which has been reported.

When making a will it is vital to choose the right executor. This is the person who will administer your estate. Problems with executors can delay the administration of an estate and prevent legacies from reaching beneficiaries.

How many executors can I appoint?

You can use a sole executor or choose two or more, (up to maximum of four). You can also appoint lay or professional executors or a mixture of both, e.g. a family member and a solicitor.

What problems can occur?

There are pros and cons with appointing both a single executor or more than one. A sole executor will not have to consult another executor to make decisions, but they will have to do all of the work involved to administer the estate and, there is no co-executor to check on how they are dealing with estate assets.

Choosing more than one executor means that the work involved can be shared. However, with each additional executor comes the risk that they may not always agree with each other. Every year, disputes arise between executors about how to deal with the administration of an estate.

Who should I choose?

It will depend upon your wishes and circumstances. However, below are some points to consider when choosing your executor(s). This list is not meant to be exhaustive:

a) Someone who wants the role

The first time that many executors learn about their appointment is after the death of the testator (the person who made a will). They may not always be willing or able to take on the role and, it is therefore useful if you can discuss with your chosen executors whether they want to take on that role and have the time available to deal with the administration of your estate.

b) What will they charge?

Appointing professional executors can avoid the need for loved ones to have to deal with an estate, at what is an already difficult time. However, professional executors usually charge fees and it is therefore important to check the total sum which will be charged, as costs can vary greatly, depending on who you appoint e.g. some online will companies charge a percentage of the value of your estate if you appoint them as executor.

c) Will your executors able to make decisions?

Professional executors can be useful if there is a problem which arises during the estate administration. If you are not using professional executors, consider whether the person whom you appoint will be able to make financial and other decisions. If someone struggles with decision making, they may not be the best person to deal with your estate.

d) Are they trustworthy?

There are cases where executors mismanage or steal estate assets, causing significant losses to beneficiaries.

It is difficult to guarantee that someone is trustworthy but, you can reduce risks involved. Check whether a professional executor is regulated and what recourse your estate would have if things do go wrong. If you are using a lay executor, consider whether they will be able to safely manage your assets.

e) Are they bankrupt?

You may want to consider whether someone who has been bankrupt is the best person to deal with your assets. That will really depend upon the facts of each case.

However, given the potential economic impact of COVID-19, many people may face financial difficulty in the future through circumstances which were entirely beyond their control. Future bankruptcy may therefore not always be an indicator of an inability to manage finances.

f) Can they work together?

One of the most important things to consider is whether your executors will be able to work together effectively. If you appoint relatives to act as executors who do not enjoy a good relationship, they are unlikely to be able to agree about matters in relation to your estate.

g) How old are they?

An executor must be aged 18 or over. Assumptions should not be made based upon someone's age. However, if you appoint someone who is significantly older than you as your executor, there is a risk that they could die

before you and will not be able to administer your estate.

If you want to appoint someone who is older than you, it is therefore advisable to review this appointment as time progresses and consider whether any changes need to be made.

h) Do they understand your wishes?

If possible, it is useful to have a discussion with your proposed executors to explain what you want to achieve in your will. Not everyone feels comfortable having such a conversation, especially if the executors are family members. However, it can enable executors to understand your wishes.

Generally, it is a good idea to review your will as your circumstances change e.g. if you marry or have children. You should therefore consider a will as an evolving document, which may need to be updated, to reflect your current wishes and also your choice of executors.

Our [Disputed Wills Team](#) advises about executor disputes and problems with the administration of estates.