



Guidance Notes for Executors.

These guidance notes have been prepared as a general guide to explain the role of an Executor appointed under a Will and the importance of these responsibilities and duties, which can be complicated and onerous.

It is essential that you understand the importance of the role you are undertaking and the potential risks you may face, as you will be legally and personally responsible for administering the estate.

An Executor's authority begins from the date of death.

Once you have started the administration process you cannot change your mind and step down, however, you can always ask for assistance from a professional if needed.

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Main duties of an Executor

- Ensure that you fully understand the contents of the Will.
- Establish ALL of the assets in the estate and obtain date of death valuations. This includes any bank/building society accounts, investments, life policies, shares, personal chattels, property, cars etc. It will also include any assets held jointly with another person and/or business assets.
- Secure any property/valuables and arrange adequate insurance cover. If a claim was to arise and adequate insurance cover had not been put in place the Executor could be personally liable.
- Notify the Department for Work & Pensions to establish whether there has been an under or over payment of pension or benefits.
- Notify utility companies and the local authority. Council Tax exemption may be applied for.
- It may be necessary to have the deceased's mail redirected.
- Open an Executor's bank account.
- Establish ALL the liabilities of the estate and pay all outstanding debts. If an Executor has failed to make adequate enquiries and distributes the estate and unknown creditors come forward at a later date, the Executor could be liable for that debt.
- Prepare and keep accounts detailing all assets and liabilities. This will enable you to assess whether there is a potential Inheritance Tax liability.
- Complete an Inheritance Tax Return for HM Revenue & Customs. The type of tax return required would depend upon the size of the estate and whether or not there is a liability for Inheritance Tax. You will be required to establish whether any lifetime gifts had been made or tax-planning schemes entered into. Failure to account to HM Revenue & Customs in the correct way can result in penalties that you could be personally responsible for.
- If the estate is worth more than the current Inheritance Tax threshold (taking into account any unused spouse exemption/reliefs/other exemptions) you will need to raise the funds to pay any Inheritance Tax due. Funds can be raised from bank accounts or by selling some of the deceased's personal property.
- Apply for a Grant of Probate at the Probate Registry (if required). This will include swearing an Oath and producing the original Will. The Grant of Probate issued by the court gives the Executor the legal power to administer the estate.
- Close all bank/building society accounts, collect in all the assets and sell any property or valuables and place the monies in an Executor's account.
- Complete any necessary Income Tax Returns and ensure that the deceased's tax affairs are up to date. Confirmation from HM Revenue & Customs should be obtained to confirm that that there is no tax liability outstanding. Other taxes also need to be finalised ie Capital Gains Tax.



- Pay all outstanding bills and debts. If there is insufficient money in the estate to pay these bills it is important that creditors are paid in the correct order.
- If any trusts are created under the Will then the Trustees (these may be the same people as the Executors but not necessarily) are responsible for looking after the trust assets and distributing them.
- Produce estate accounts detailing exactly how the estate is made up and obtain approval from all residuary beneficiaries.
- If there are missing beneficiaries, adequate searches must be made and it must be demonstrated that these have been made ie legal advertisements etc. Insurance can be taken out if they cannot be found. Failure to make adequate searches may result in the Executor being personally liable if the "missing" beneficiary turns up at a later date.
- Carry out bankruptcy searches against beneficiaries to ensure that a payment is not being made to a bankrupt beneficiary. If payment is made the Executor can be personally liable to the trustees in bankruptcy for any money they are unable to recover.
- Distribute any legacies within the time frame set by law; failure to do so will result in interest being payable on the legacy.
- Distribute final payments to residuary beneficiaries.
- Prepare and issue HM Revenue & Customs tax certificates to residuary beneficiaries showing their share of the income of the estate and any tax deducted from it.
- Store all principal estate papers and Estate Accounts for 12 years.

This list is by no means exhaustive but merely a guide to administering an estate and to help you understand the potential risks you may face so you can make an informed decision as to whether you take on the role of Executor. Administering an estate can be complex and each estate is different. You should be aware that you are not obliged to act as an Executor, however, if you choose not to take on the responsibility then you must resign before attempting to deal with any matters. Once you become involved you become responsible for dealing with the administration. This guide should not be relied upon by anyone administering an estate as each estate is different. If required, lawyers at Cozens-Hardy can provide advice and assistance on your individual situation.

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