

For Soldiers. For Veterans. For Families. For Life.

The Army's National Charity

WHAT IS AN EXECUTOR?

An executor is the person who is charged with dealing with the finances and possessions of the deceased as stated in their Will. These finances and possessions are collectively known as the Estate. The executor has the legal authority and responsibility to administer the estate.

WHO CAN BE AN EXECUTOR?

You can act as an executor even if you stand to inherit something from the Will. The person making the Will can appoint up to four executors (the standard is two), so you may be sharing the responsibility with others. A witness to the Will can also be an executor, but a witness cannot be a beneficiary of the Will.

CAN I DECLINE TO BE AN EXECUTOR?

To be named as an executor to a Will, you should have been asked and have agreed to take on the responsibilities of executor. However, you can rescind your agreement providing you make the decision before any work has started. Any one named as executor, including any professional organisations, can decide not to administer the estate of the deceased. By renouncing their entitlement, they are not named on the Grant of Probate. You can also have what is called "Power Reserved" so that you're 'in the background' should you need to come back and start acting as executor, e.g. where the executor who has taken out of the Grant is no longer able to act.

CAN I CHANGE MY MIND?

If you have accepted the role but change your mind, talk to the person who has appointed you about your decision as they'll need to change their Will. If you change your mind after the person has died, write to Probate Registry to tell them you no longer want to be an executor. You will need to fill out a formal document called a form or Deed of Renunciation.

Note however, that you can only make this decision immediately after the death of the person who has appointed you as their executor and must not have dealt with their estate in any way before you sign the renunciation. Once you have started dealing with the estate you cannot then resign as executor.

WHAT IS INVOLVED IN BEING AN EXECUTOR?

Executors are responsible for administering the property and possessions of the deceased in line with their wishes and the law. They are responsible for everything they do, or fail to do, in relation to the estate. The responsibility lasts for the duration of the Administration of the estate and, in many cases, any ongoing Trust created.

Specifically, executors need to:

- Identify and collect all assets and money due to the deceased's estate (including any property).
- Pay any outstanding taxes and debts (including any property).
- Distribute the estate to the people who are entitled to it under the terms of the Will or under the Intestacy Rule.
- Make sure all the property owned by the deceased person is kept safe and secure as soon as possible after their death.

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The precise duties fall under the following three areas:

1. Legal

Applying to and attending a local court to apply for Grant of Representation. This is known as the Grant of Probate. You can ask your solicitor to deal with this for you.

It is worthwhile obtaining copies of the certified entry of death and the Will from the Registrar of Births, Deaths and Marriages, as photocopies for legal purposes are not usually accepted.

Identifying and dealing with any claims against the estate.

2. Tax

Completion and submission of Inheritance Tax returns and payment of any Inheritance Tax.

Completion of any necessary Income and Capital Gains Tax returns and payment of any outstanding tax.

3. Administration

Notification and correspondence with all relevant organisations in order to gather all assets and pay all debts and charges on the estate. Note that funeral expenses are usually the first thing to be paid out and can be arranged before grant of probate.

Search for unclaimed or missing assets.

Prepare and distribute estate accounts to residuary beneficiaries.

Correctly distributing the estate to the beneficiaries; solicitors and other advisers can also help you to carry out your role as an executor. You can find a solicitor who specialises in other areas by visiting The Law Society.

WILL I BE LEGALLY BOUND OR RESPONSIBLE FOR THE WILL?

An executor can be held personally financially liable for any loss resulting from a breach of their duty - even if the mistake is made in good faith. Examples include:

Failure to pay the debts and liabilities of the deceased.

Failure to settle the affairs of the deceased relating to Inheritance Tax (IHT), Income Tax and Capital Gains Tax. Most estates do not have to pay IHT as they are below the threshold, which is presently £325,000.

Failure to settle any claim against the estate.

Failure to identify and correctly distribute assets to the beneficiaries (including those initially not known about).

Disappointed beneficiaries have up to six months to make a claim after issuing the Grant of Probate while creditors' owed money by the deceased can potentially make a claim against the personal representative for up to 12 years after the death.

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USEFUL CONTACTS

1. Solicitors are available via **The Law Society of England and Wales or the Law Society of Scotland**. You can search for one by postcode on the England and Wales Law Society website www.lawsociety.org.uk or phone **020 7320 5650** and for Scotland www.lawscot.org.uk or phone **0131 226 7411**. The Law Society of Northern Ireland website is www.lawsoc-ni.org and their phone number is **028 9023 1614**.
2. **Tell Us Once** – are a service available in most local authorities across England, Wales and Scotland, which allows you to tell the government just once about a person's death in order for their documents to be cancelled and benefits to be stopped at www.gov.uk/tell-us-once (not available in Northern Ireland).
3. **Probate Service** – In England and Wales there are regional Probate Service offices. To locate yours please consult a solicitor or local government office. For information or advice on dealing with an estate contact **0300 123 1072** or www.justice.gov.uk/courts/probate. In Northern Ireland contact 'Probate Office, Royal Courts of Justice, PO Box 410, Chichester Street, Belfast, BT1 3JF' or phone **028 9072 4678**, their website is www.courtsni.gov.uk.
4. **HM Revenue and Customs (HMRC)** – For information about taxes, including Income Tax and Capital Gains Tax, visit the HMRC website via www.hmrc.gov.uk there is also a national Probate and Inheritance Tax Helpline for general information about dealing with taxes of an estate, **0300 123 1072**.
Citizens Advice Bureau – National network of advice centres offering free, confidential, independent advice, face to face or by telephone. For details of your local Citizens Advice visit www.citizensadvice.org.uk for England and Wales, for Northern Ireland www.citizensadvice.co.uk and for Scotland www.cas.org.uk. Alternatively call for England **03444 111 444**, Wales **03444 77 2020**, Northern Ireland **0300 123 3233**, for Scotland **0808 800 9060**, Text Relay users should call **03444 111 445**.