

Appointing Professional Executors and Trustees

Though executors and trustees fulfil important legal functions, you do not have to be a lawyer or solicitor (or any other kind of professional) to take on these roles. It's common for people to appoint trusted friends or family members to be their executors or trustees.

However, there are many situations in which appointing a professional executor or trustee can be helpful, or even necessary, to ensure your estate or any trusts are managed properly.

This factsheet explains the benefits of appointing professional executors and trustees and explores the circumstances in which you might consider doing so.

This factsheet assumes you are generally familiar with the roles that executors and trustees play. If you would like more background information on this, please read our [factsheet](#) on 'Appointing Executors and Trustees' first.

Why might I want to appoint a professional executor or trustee?

There are several ways in which appointing a professional to administer your estate or trust can be helpful:

Knowledge and experience

Trust and estate administration is a highly technical area of law. A professional executor or trustee will be able to call upon extensive knowledge and experience to administer the estate or trust as effectively as possible. This might involve taking advantage of tax reliefs and exemptions that a non-professional executor or trustee might not have known about.

In addition, certain kinds of complicated arrangements may not be suitable for handling by non-professional executors or trustees. If you have property in several different jurisdictions, for example, it can be very difficult for a 'lay' executor to take control of, and administer, these foreign assets.

Easing the burden on friends and family

Acting as an executor or trustee can be challenging. Aside from the technicalities discussed above, the roles place significant administrative burdens on those appointed. If your intended appointees don't respond well to paperwork or organisational tasks, being called upon to act as your executor or trustee could become very stressful for them. It's also important to consider that they will have to do this at a time which will already be difficult – the aftermath of your death.

Avoiding legal difficulties and risks

If an executor or trustee breaches their legal duties, it's possible for them to be held personally and financially responsible for their conduct. A professional executor or trustee will be fully aware of their legal duties, as well as the consequences of breaching them.

However, a friend or family member may not be completely clear on their role, and it could lead to mistakes being made in the administration of your estate or trust. Not only could this undermine your intentions, it could also leave the person you appointed as executor or trustee personally liable to 'make good' the damage they have caused.

Impartiality

Unfortunately, family ties can often be the source of drama and dispute. When someone dies, emotions run high and this can cause tensions to flare up. If you foresee any risk of this happening, appointing a professional executor or trustee can be a useful precaution. They will be independent, removed from any family disputes and ideally placed to carry out your wishes as you intend.

This can be particularly effective in certain trust arrangements which give trustees powers to distribute the trust assets as they see fit (these are called [discretionary trusts](#)). Appointing someone from within the family may attract accusations of bias or unfairness: a professional trustee will ensure this decision-making power is exercised with impartiality.

Certainty

When appointing executors, or trustees in a Will, there's always the possibility that an appointee may die before you.

Some people choose multiple appointees and nominate backup executors and trustees in order to avoid this issue, but another option is to appoint a firm of solicitors. You can choose to name a company or firm as your executors or trustees rather than an individual solicitor or professional. This means there will always be someone available from that organisation to manage your estate or trust.

In the absence of anyone suitable

You may not consider any of your friends or family to be suitable to act as your executors or trustees. There are a wide variety of reasons for this, but whatever they are, if you're not comfortable appointing any of your loved ones as your executors or trustees, then appointing professionals is really the only solution. You must always ensure that anyone you appoint is someone you trust to administer your estate or trust properly.

What is the process of appointing a professional?

The process of appointing a professional executor or trustee is very straight-forward. When you are making or updating a Will, your solicitor will ask who you have chosen to name as executors and/or trustees. At this point you can ask your solicitor if they or their firm will act in this capacity.

You will not need to pay anything for this service at the time of making your Will, but the professional executor or trustee will need to be paid once they have carried out the work involved in administering your estate or trust. They will usually be paid from the estate before it is distributed to your beneficiaries.

Payment for professional executors and trustees is usually on the basis of both an hourly fee and an additional sum based on a percentage of the total value of the estate. At Roche Legal, we charge an appropriate hourly fee based on the experience of the legal professional you're working with, plus 2.5% of the gross value of cash and assets, and 2% of the gross value of property.

Professional executors can also claim the cost of expenses from the estate, whereas non-professional executors cannot.

Appointing a mix of professional and 'lay' executors or trustees

It's usually recommended that you appoint between two and four executors or trustees. With this in mind, appointing a professional does not preclude you from appointing friends or family members as well. Appointing one professional trustee amongst a total of four, for example, is one way to provide the other 'lay' trustees with the technical support and other benefits that a professional trustee may bring.

If you choose not to appoint professional executors or trustees in your Will, your friends or family members will still be able to seek legal advice from specialist solicitors to help them with carrying out their duties, should they wish to.

How Roche Legal can help

Dealing with legal issues can be confusing and stressful. We understand this, and we're always on hand to untangle jargon and offer support.

If you need advice on any of the issues raised in this factsheet, please don't hesitate to [get in touch](#). Roche Legal is an award-winning legal practice, offering practical and caring advice.

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