

HOW TO CHOOSE AN EXECUTOR



Your executor carries out (or executes) the wishes set out in your will. Choosing the right person or persons is an important decision.

It should be somebody you trust and is up to the job. Ideally, it should be a job given to two people to act as co-executors.

SO, WHAT DOES AN EXECUTOR ACTUALLY DO?

Their primary task is to extract what is called a Grant of Probate.

When someone dies their assets are frozen and a legal mechanism is required to allow another person to unfreeze these assets and manage the estate left behind.

Probate or Administration is the legal term for a procedure that gives a person, chosen by you, authority to manage this estate.

Some assets, if jointly owned or nominated, can automatically pass to the joint owner or nominated party on death and the executor needs to be able to identify such assets.

For assets that will not pass automatically, an executor needs to go through a number of legal steps to get the Grant of Probate from the High Court.

To do this, they will need to be able to locate the Will.

In most cases the Will is held by the Solicitor that acted for the deceased person and the Executor will have knowledge of it.

It is advisable for anyone who makes a Will to let either the Executor or a family member know where the original Will is kept.

It is usually the Executor who makes contact with the Solicitor when the Testator (person who makes a Will) passes away.

The Solicitor will then make arrangements for the Executors to call for the reading of the Will.

After the meeting the Executors and the Solicitors will be on a fact finding mission to find out the assets and the liabilities of the deceased.

It is very helpful if the deceased has left a summary of assets, bank accounts and insurance policies with the Will as it can be a good starting point in the enquiries.

The details of the assets and liabilities of the Testator must be disclosed to Revenue. Once all enquiries have been completed the Inland Revenue Affidavit is prepared for the Revenue Commissioners. At the same time the Executor will complete the application forms required to issue the Grant of Probate.

Once the application is submitted the papers will be considered by the Probate Office and, if everything is in order, the Grant of Probate will issue.

Once the grant has been obtained, the eExecutor now has a legal duty to administer the estate in accordance with the law of succession and the wishes of the deceased as set out in their will.

They have the power to gather all of the property of the Testator and distribute it in line with the directions in the will.

So, for example, money in the Testators bank account can be withdrawn, shares can be sold and title to property (e.g. houses) can be transferred to the beneficiaries or sold depending on the instructions in the Will.

FOR MORE INFORMATION

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