

Information

Appointing Thomson Snell & Passmore Trust Corporation Limited as an executor and trustee of your will

Duties of executors

Executors are the persons named in your will who have the job of winding up your financial affairs after your death. Their chief duties are:

- 1 to safeguard the money, property and other assets comprised in your estate;
- 2 to administer your estate with due diligence, including the collection or sale of assets and the payment of all liabilities, including tax and any legacies;
- 3 to distribute the remainder of the estate in accordance with the terms of your will.

The executors' job involves considerable responsibility and is potentially very onerous and time-consuming. They will be accountable to those who benefit under the will and, ultimately, to the Court for any failure to manage and distribute your estate properly.

Who may act as executors

Executors may be chosen from family members and close friends who do not hold legal or other professional qualifications (lay executors). They can include one or more of the beneficiaries named in your will, provided that they are of full age and capacity.

The executors may also be, or include, professional persons such as a solicitor (acting either directly or via a trust corporation) who is in the business of providing estate administration services. However, you should bear in mind that there is no legal requirement for a professional person to be involved. Lay executors will have the option of employing a solicitor as

their adviser to help deal with your estate. This means that the necessary decision-making and ultimate responsibility for the estate will remain with the lay executors.

When deciding who should act as executors, you will need to keep in mind the size, nature and location of your estate and the availability, suitability and willingness of the possible candidates. You also need to consider any potential conflict of interest, either between your proposed executors or in their relationship with the beneficiaries of your will.

Advantages of appointing Thomson Snell & Passmore Trust Corporation Limited (TSPTC)

By appointing TSPTC to act alone or jointly with lay executors, you will be involving its representative director (a partner in Thomson Snell & Passmore LLP) in all decisions concerning your estate. TSPTC will thus have direct responsibility for the winding up of your estate. This arrangement has a number of important advantages:

- 1 for large or complex estates, TSPTC will ensure that the decisions of the executors take full account of relevant legal and tax issues;
- 2 in a situation of emotional distress or where difficult family relationships create conflict or a risk of it, TSPTC will provide an independent and impartial presence in the executorship and ensure the professional and even-handed administration of your estate;
- 3 since TSPTC is wholly owned by, and employs the legal services of, Thomson

Head Office
Heathervale House
2-4 Vale Avenue
Tunbridge Wells
Kent TN1 1DJ
T 01892 510000
F 01892 540170

Thames Gateway
Corinthian House
Galleon Boulevard
Crossways Business Park
Dartford
Kent DA2 6QE
T 01322 623700
F 01322 623701

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Snell & Passmore LLP it will have the expertise and resources at its disposal to maintain progress in your estate as far as circumstances allow, thereby preventing an excessive burden being placed on lay executors; and

- 4 because TSPTC is a company, continuity will be assured through another director should anything prevent the acting director from completing the administration of your estate.

Fees

We charge on the same basis for carrying out the administration of your estate whether or not TSPTC is appointed as an executor. If the executors include TSPTC, there is no supplementary charge for this.

Our charges for estate administration are based on hourly rates and are not calculated as a fixed percentage of the asset value. In most cases we proceed by way of clear fee estimates for the different phases of work involved in handling the estate. Experience has shown that these time-based charges tend to produce an overall fee roughly equivalent to between 1% and 2% of the probate value of the assets involved, with larger estates falling within the lower to mid part of that range. In complicated or very difficult estates, our fees may be more.

If your will creates ongoing trusts of one kind or another, TSPTC can act as a trustee as well. Our trust administration charges are also time-based, although where TSPTC is involved there is an additional director responsibility element assessed at 0.1% per annum of the value of liquid assets in the trust fund.

It should be borne in mind that our methods of charging for estate and trust administration work may change by the time of your death, particularly if this occurs many years hence. We can, therefore, only provide guidance about our current approach.

Conclusion

It is not compulsory to have a professional executor. Appointing lay executors with the option of engaging professional advice and assistance if required may be the right course for you. This is likely to be so where your estate is not especially large and the issues involved will be relatively straightforward.

However, where the choice of potential executors is restricted and there are doubts about their suitability, the appointment of TSPTC will ensure that your estate is dealt with properly and efficiently. Where a high level of legal advice and support is going to be required, this may well be the most practical solution.

Disclaimer

This information sheet is written as a general guide. As any course of action must depend on your individual circumstances, you are strongly recommended to obtain specific professional advice before you proceed. We do not accept any responsibility for action which may be taken as a result of having read this information sheet.

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