

I'm an Executor

What do I need to do?

Being an Executor is a daunting task. At a difficult time, you're faced with a whole new raft of duties and responsibilities. To help you navigate through your new role, we've prepared a short briefing sheet answering some common questions about being an Executor and what an Executor's duties and powers are.

I'm an Executor – what do I need to do?

As Executor you now have the responsibility of managing the assets of the deceased and making sure that their wishes are carried out. This means that you must find out about **all** of the assets (house, money, shares, insurance policies, art, antiques etc), and any debts (mortgage, loans, credit card, utility bills, etc), that the deceased had at the date of their death.

You then collect in all of the assets and pay any debts. Finally, you distribute the assets to the beneficiaries of the estate, according to the deceased's will.

How do I find out about the assets and debts?

You will need to go through the deceased's papers to find bank statements, insurance policy statements, mortgage statements, share certificates and the like. You'll also need to find out about debts like credit cards, mortgages, car loans and similar. Don't forget utility bills are debts too.

This information enables interested parties like banks, building societies, share registrars and others, to be notified of the death and valuations of assets, and debts, at the date of death to be obtained.

Who pays the funeral costs?

On receipt of notice of death, the banks will instantly freeze the deceased's accounts and cancel their direct debits so that no one can access the funds. So how do you pay for the funeral? In these circumstances, most banks, if you give them the funeral bill, will pay the funeral directors directly from the deceased's bank account. However the cost of funeral teas or other expenses will have to be met by family or friends initially and then reclaimed from the estate later on in the process.

For bank accounts held in joint names, it's simply a case of showing the bank a death certificate. This should be sufficient evidence for the bank to transfer the account into the survivor's name giving them access to money for the funeral costs.

I know what the assets and debts are, so can I now deal with them?

Not quite. Depending on the nature and value of the assets, you may have to go through a court process to obtain Confirmation before you can get access to the assets or transfer assets to the beneficiaries.

Confirmation is legal evidence of your authority as Executor to manage the assets. For example, if the deceased owned a house then an application must be made to the court to obtain Confirmation before legal title to the house could be transferred to a beneficiary or before the house could be sold. Similarly if the value of bank accounts is substantial or the deceased held shares or insurance policies, then it is more than likely Confirmation will be requested as proof of your authority to deal with the assets.

What happens if inheritance tax is payable?

If the total value of the assets exceeds the inheritance tax nil rate band and inheritance tax is payable, then before Confirmation can be obtained an inheritance tax account will have to be submitted to HMRC.

How do I collect the assets?

Once you have paid any inheritance tax due and Confirmation has been granted, you need to send the certificates of Confirmation for each asset to the relevant parties. This gives them authority either to release the funds held in bank accounts or to act on your instructions to transfer the asset. If there is a house or land among the assets, the beneficiaries may wish to sell this so you will need to contact estate agents to deal with the marketing.

I have collected all the assets. When can I transfer them to the beneficiaries?

Before any payments or transfers are made to the beneficiaries you need to ensure that any debts have been paid and that there are no outstanding tax liabilities of the deceased or the estate. As Executor you are ultimately responsible for the payment of the liabilities on the estate.

Once you are happy that all outstanding debts and liabilities have been paid, the assets can be distributed to the beneficiaries in accordance with the deceased's will. This may mean paying out cash or alternatively transferring shares or property to the beneficiaries.

How long should this process take?

This will depend on the particular circumstances that you are dealing with. However, as a bare minimum, assets of an estate should not be distributed within 6 months of death in case any debtors decide to make a claim.

It's all too much for me – can you help?

Dealing with the loss of a relative or a close friend is difficult enough without the added pressure of dealing with the administration of their assets and an unfamiliar legal process. We can help you with the administrative process and provide guidance for you to ensure that you fulfil your duties as Executor.

This Information Sheet is based on Scottish law. If you are acting for someone who has died in England or Wales, our English law team can help you navigate your way through the legal differences.

For further information on these or any other personal law issues, please contact:

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