

# Tips for choosing your executor

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By MELISA SLOAN

THE ROLE of an executor is a crucial one to consider when putting your estate plan in place.

In appointing someone as the executor of your *Will*, you are giving them the keys to all that you own and control.

That's big.

You, therefore, need to appoint someone you trust implicitly to undertake this role.

You need to appoint your trusted ally.

To ensure that you appoint the right executor, let's look at the most common mistakes people make in choosing their executor.

## Let your executor know

The role of an executor can be cumbersome and demanding, so it is important to chat with the person regarding your intention to appoint them as the executor of your *Will* and ask if they would be willing to accept the role.

Failing to have this discussion with your executor could result in them refusing to undertake the role upon your death, which may result in someone who you would not have chosen administering your estate.

Having an informed chat with your executor provides you with an opportunity to convey any specific wishes you may have, as well as providing them with an overview of your affairs.

You can advise them where important documents are kept and discuss your asset structure and important information pertaining to your business operations.

The more information that you can communicate, the better equipped they will be to perform the role.

## Playing the fairness game

Appointing a particular person as your executor for the compelling reason that you think it is the "fair and right thing to do" can often be detrimental.

Appointing your eldest child as your executor solely because they are the eldest, and despite being terrible with time management, organisational skills, and financial literacy, would be a catastrophic choice.

The role of an executor is a responsible one, in which the executor owes a strong fiduciary duty to the beneficiaries.

Accordingly, it is paramount that you appoint the best person to the role, the person who you trust, the person who has integrity and honesty, a person who is receptive to obtaining the appropriate financial, legal, and accounting advice, and who fully comprehends the importance and significance of the role.

## Location is important

In appointing your executor, it is important to consider where they are located.

During my career, I have seen *Wills* where elderly executors have been appointed who permanently reside overseas and who are unfamiliar with the Australian jurisdiction and the probate and estate administration requirements.

They are often reluctant to travel to Australia to attend to the probate and estate administration obligations pertaining to their role as the executor of a *Will*, which can create complications.

The role often requires them to be

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present to sign documents and oversee the distribution of assets, particularly where the estate is complex.

Consequently, when determining the best person to be your executor, you must consider where they are located.

## The wrong joint executors

Often people choose to appoint multiple executors but are remiss in not considering the relationship between the appointed executors and whether they could work well together.

If you appoint your three children as your executors and two of them do not get along, it's likely to be a tedious experience for all involved.

If your children don't get along while you are alive, it is highly likely that they won't get along when you are no longer

here, particularly if you were the glue that held them together.

In such instances, appointing all children to the role would be impractical.

Alternatively, you may consider appointing friends or family members who have never met each other.

Your decision may be based on the assumption that you believe they both bring specific strengths and attributes to the role.

In such an instance, it would be beneficial for your proposed executors to meet.

Arranging a gathering to introduce them to each other and discuss your expectations would be highly beneficial to all parties.

If you are contemplating appointing

joint executors, I would encourage you to consider the following:

- Do they know each other?
- Will they work well together as joint executors?
- Is there any conflict between them?
- Will they implement your wishes and act in the best interests of the beneficiaries?

Essentially, when appointing an executor, the person you select is the person you trust the most and who you feel has the attributes and capacity to undertake this role in the best interest of you and your beneficiaries.

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