



Issues	A Solicitor	Do it myself	State Trustees
<p><b>Who does all the running around?</b></p> <p>The role of Executor requires specific skills and financial knowledge. An Executor has a long list of duties to perform which can be very complex.</p>	<ul style="list-style-type: none"> <li>• Check exactly what tasks your Solicitor will perform on your behalf – you may have to do many yourself</li> <li>• Most Solicitors need to outsource financial planning and taxation work as this is not part of their core business</li> </ul>	<ul style="list-style-type: none"> <li>• All tasks are performed by you</li> <li>• To avoid making mistakes you will need to understand law, taxation, accounting and business issues relating to deceased estates</li> </ul>	<ul style="list-style-type: none"> <li>• We perform all tasks associated with the estate's administration</li> <li>• We have a team of experienced, specialist staff including legal, taxation and financial planning experts</li> </ul>
<p><b>Family conflict</b></p> <p>Disputes between beneficiaries and family members are common. Who will resolve the conflict?</p>	<ul style="list-style-type: none"> <li>• Many Solicitors focus on core legal work and don't get involved in family conflicts unless they could result in a claim</li> </ul>	<ul style="list-style-type: none"> <li>• You will have to resolve all conflicts and issues before you can finalise the estate and distribute assets</li> </ul>	<ul style="list-style-type: none"> <li>• We act as an impartial 'umpire' in the best interests of the estate – you won't be caught in the middle</li> </ul>
<p><b>Personal liability</b></p> <p>Executors can be legally liable if they make a mistake or if someone feels they haven't done their job properly. Costs can be high.</p>	<ul style="list-style-type: none"> <li>• The Solicitor does not take over as Executor – their role is to advise you and to act on your instructions</li> <li>• As the named Executor, in most cases you will have personal liability and could be sued if something goes wrong</li> </ul>	<ul style="list-style-type: none"> <li>• You have full personal liability and could be sued if something goes wrong</li> </ul>	<ul style="list-style-type: none"> <li>• When State Trustees takes over as Executor, we take on all the responsibility</li> <li>• We may well be legally liable if anything goes wrong</li> </ul>
<p><b>Interest earned by the estate</b></p> <p>When a property or other asset is sold and the funds invested, what happens to the interest earned on this money?</p>	<ul style="list-style-type: none"> <li>• Some Solicitors are only able to deposit estate monies into their normal Trust accounts which means the interest earned goes to the Legal Practitioners Fidelity Fund, not to the estate</li> </ul>	<ul style="list-style-type: none"> <li>• You will have to sell assets, invest the proceeds prudently and pay the proceeds and interest to beneficiaries</li> <li>• You will need to keep records of all estate transactions</li> </ul>	<ul style="list-style-type: none"> <li>• We invest the proceeds of sale until the estate is finalised</li> <li>• Proceeds plus interest earned are distributed to beneficiaries</li> </ul>
<p><b>Challenges to a Will</b></p> <p>Anyone – not just immediate family – can challenge a Will. Claims can be made by anyone who feels the deceased had a responsibility to provide for them in their Will, or to provide a greater share.</p>	<ul style="list-style-type: none"> <li>• A Solicitor will provide advice but you will remain responsible for making the decisions</li> <li>• Not all Solicitors specialise in court challenges against estates if a claim is made</li> </ul>	<ul style="list-style-type: none"> <li>• You will need to understand the law relating to these claims</li> <li>• You will have to make all the decisions in relation to claims including whether to settle legal actions or go to Court</li> </ul>	<ul style="list-style-type: none"> <li>• We work through any claims on the estate's behalf and have legal experts to assist us</li> <li>• We are responsible for making decisions in relation to claims and act independently and impartially when doing so</li> </ul>
<p><b>Ongoing Trusts</b></p> <p>Many estates involve distributions to children or other beneficiaries where funds are held in Trust for years to come.</p>	<ul style="list-style-type: none"> <li>• Not all Solicitors are in a position to help you as Executor manage Trusts on an ongoing or long-term basis</li> </ul>	<ul style="list-style-type: none"> <li>• If you are also the Trustee you will need to manage Trust funds/assets into the future</li> <li>• You will need to understand Trust law and the role and obligations of Trustees</li> </ul>	<ul style="list-style-type: none"> <li>• We specialise in Trust administration and perform this ongoing role</li> </ul>

## Contact list for the Executor

The administration tasks of an Executor include contacting a number of organisations and people associated with the deceased person in the days and weeks after their death. The following checklist outlines some of the people and organisations who might need to be contacted. It also illustrates who would normally be responsible for these notifications, depending upon who is to administer the estate – whether it is you, State Trustees as Executor, or a Solicitor acting on the Executor’s instructions.

Organisation/Person	A Solicitor*	Do It Myself	State Trustees	
• <b>Clubs</b>	Clubs (RSL, Rotary)	✗	✓	✓
• <b>Associations</b>	Mailing lists	✗	✓	✓
• <b>Memberships</b>	Subscriptions (magazines, newspaper)	✗	✓	✓
• <b>Financial Service Providers</b>	Accountant	✓	✓	✓
	Australian Tax Office	✓	✓	✓
	Banks	✓	✓	✓
	Centrelink	✓	✓	✓
	Credit Cards	✓	✓	✓
	Financial advisor	✓	✓	✓
	Superannuation fund	✓	✓	✓
	• <b>Government</b>	Department of Veterans’ Affairs	✗	✓
• <b>Council</b>	Electoral Office	✗	✓	✓
• <b>Local services</b>	Foreign Pension Authority	✗	✓	✓
	Home care services (meals on wheels, gardener)	✗	✓	✓
	Local council (rates)	✗	✓	✓
	Post office	✗	✓	✓
	Public services (library)	✗	✓	✓
	Vic Roads	✗	✓	✓
	• <b>Healthcare Providers</b>	Doctor	✗	✓
Physiotherapist	✗	✓	✓	
Dentist	✗	✓	✓	
Pharmacist	✗	✓	✓	
Optometrist	✗	✓	✓	
Medicare	✗	✓	✓	
Social worker	✗	✓	✓	
• <b>Insurance Providers</b>	Car	✗	✓	✓
	Medical	✗	✓	✓
	Home	✗	✓	✓
	Life	✗	✓	✓
• <b>Utilities</b>	Gas	✗	✓	✓
	Electricity	✗	✓	✓
	Internet	✗	✓	✓
	Home telephone	✗	✓	✓
	Mobile phone	✗	✓	✓
	Pay TV	✗	✓	✓
	Water	✗	✓	✓
• <b>Other</b>	Employer	✗	✓	✓
	Landlord	✗	✓	✓
	Minister of religion	✗	✓	✓

\* A Solicitor, acting on the Executor’s instructions, would normally contact all financial service providers to ascertain details of the deceased’s assets as at the date of death. They may also contact other organisations and people on this list depending upon their instructions and the arrangements made with the Executor in relation to the amount and payment of their legal costs.

## Questions?

Call State Trustees

**03 9667 6319**

Residents outside the Melbourne metropolitan area can call

**1300 138 672**

or visit

[www.statetrustees.com.au](http://www.statetrustees.com.au)

