

Should I appoint a trust corporation as an executor or trustee of my Will?



When we help clients to prepare their Wills, one of the most important things we discuss is the choice of executors and trustees. Most people want friends or family members to carry out their wishes and to deal with their estate after their death. They, after all, have intimate knowledge of the family and its arrangements but before making the decision, it is worth giving it a little more thought.

Being an executor and trustee is a serious responsibility, with personal responsibility. It can be difficult to do everything that has to be done whilst keeping relationships on an even keel, at a time when emotions are likely to be running high and, later, when making decisions about managing any ongoing trust arrangements. This is where a professional executor can work alongside family members, helping them to stay objective and taking any 'flak' if difficult decisions have to be made.

Perhaps there are sensitivities about how the estate is being shared out between a second wife and the children of a previous marriage.

There might be a nil rate band trust (NRBT) in the Will, setting aside a slice of the estate while the rest goes to the surviving spouse. Children are often appointed as executors and trustees of their parents' Wills but if they are beneficiaries under the NRBT, you might not want them to have a say over how the trust is used while the surviving spouse is still alive.

The pitfalls of appointing a named professional

Sometimes, a named professional person is appointed as co-executor or trustee alongside a family member, to help with administration of the estate or trust. This is perfectly possible but can cause problems e.g. if the professional moves to another firm or cannot act because of illness or worse.

We dealt with one such case, involving a substantial trust fund held across a wide range of assets. The firm dealing with the administration did not have a trust corporation and so individual partners were appointed. One of the partners decided to move to another law firm. The family wanted the trust work to remain with the original firm, so another partner in that firm had to be appointed as trustee, and all the assets re-registered in the names of the new trustees. This was a time consuming and expensive exercise.

In another case, the named partner was suddenly taken very ill and was unable to work for many months, so another trustee had to be appointed at short notice and, again, all the trust assets re-registered in the names of the new trustees.

Benefits of a trust corporation

This is where a trust corporation has the edge. Instead of appointing an individual, your Will can appoint the trust corporation as an executor and trustee. In our own trust corporation, Cripps Trust Corporation Limited (CTC), the directors are partners in Cripps' Private Client team and CTC continues even though the directors might retire and change. On a practical level, one of the directors of CTC is more likely to be available for making decisions or to sign documents than a single individual. The combined experience of the directors is invaluable if unusual or complex issues arise during the administration of the estate or, later, when dealing with the trust.

One additional advantage of trust corporations like CTC came to light recently, when the Court of Protection (CoP) said that solicitors' trust corporations will need less compliance to be approved to act for individuals whose affairs are dealt with in the CoP. This is because the directors will already be subject to the stringent regulations which apply to solicitors for the protection of the public.

How we can help

If you would like to discuss trust corporations or learn more about appointing Cripps Trust Corporation Limited as a trustee or executor, please contact Hannah Glover on 01892 506 057 or at hannah.glover@cripps.co.uk.

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