

Common Executor Pitfalls & How to Avoid Them

Being an executor is harder than most people think.

There are legal steps, money to get right, and a lot of feeling to manage at the same time. It's easy to make mistakes, especially when you're grieving and under pressure from family.

This section covers the most common pitfalls executors face and how to avoid them.

Learn from other people's mistakes so you don't have to make them yourself.

Common mistakes and how to avoid them

PITFALL 1: Distributing assets too soon

THE MISTAKE: Executors sometimes distribute assets to beneficiaries before all debts are paid and all claims are settled. Then a creditor appears, or a tax bill arrives, and there's no money left to pay it.

HOW TO AVOID IT:

- It is usually wise to hold off distributing until the estate's debts, claims and tax are properly dealt with. What that involves varies by estate, so have your accountant or solicitor confirm it is safe to distribute before you do. Ask your accountant or solicitor what applies to this estate.
- Wait until all debts are paid
- Wait until the creditor notice period has expired (the required notice period varies by state, so check with your solicitor for the period that applies to you)
- Keep a reserve in the estate account for unexpected expenses
- Get written approval from beneficiaries if you must distribute early

PITFALL 2: Not keeping detailed records

THE MISTAKE: Executors fail to document their actions, expenses, and decisions. Later, beneficiaries question what happened, and the executor can't prove what they did or why.

HOW TO AVOID IT:

- Start a detailed record-keeping system from day one
- Document every phone call, letter, email, and meeting
- Keep all receipts for expenses (even small ones)
- Take photos of property before selling or distributing
- Keep copies of everything
- Use Section 41 (Executor Expense Log) to track costs

PITFALL 3: Paying debts in the wrong order

THE MISTAKE: Not all debts are equal. Some must be paid first (like funeral costs and tax debts). Executors who pay debts in the wrong order can be held personally liable.

HOW TO AVOID IT:

- Work with a solicitor to understand debt priority
- Generally, the order is:
Different kinds of debt rank differently, and the correct order is technical and varies by state, getting more complicated if the estate cannot cover everything. Confirm the right order with your solicitor before paying anyone, rather than relying on a general rule. The exact legal order varies by state, and gets more complicated if the estate can't cover everything, so confirm the correct order with your solicitor before paying anyone.
- Don't pay anyone until you know the full picture

PITFALL 4: Mixing personal and estate funds

THE MISTAKE: Executors use their own money to pay estate expenses, or they deposit estate money into their personal account. This creates confusion and can look like mismanagement.

HOW TO AVOID IT:

- Open a separate estate bank account immediately
- All estate income goes into this account
- All estate expenses are paid from this account
- Never mix it with your personal finances
- Keep the estate account separate until the estate is fully settled

PITFALL 5: Acting without probate when it's required

THE MISTAKE: Some executors try to access bank accounts, sell property, or distribute assets before getting Grant of Probate. Banks and institutions won't cooperate, and it wastes time.

HOW TO AVOID IT:

- Check with the solicitor whether probate is needed
- If required, apply for it before trying to access assets
- Whether probate is needed depends on the size of the estate and how each asset is held, and each bank or institution sets its own requirements. Confirm with the solicitor and each institution before assuming you can skip it.
- Wait for the Grant before taking action on major assets

PITFALL 6: Ignoring or delaying communication with beneficiaries

THE MISTAKE: Executors go silent. Beneficiaries don't know what's happening, assume the worst, and start making accusations or legal threats.

HOW TO AVOID IT:

- Send regular updates to beneficiaries (monthly or quarterly)
- Be transparent about timelines and delays
- Explain what you're doing and why
- Manage expectations (estates take time)
- Respond to questions promptly

PITFALL 7: Taking on too much alone

THE MISTAKE: Executors try to do everything themselves to save money. They get overwhelmed, make mistakes, and the estate takes years to settle.

HOW TO AVOID IT:

- Hire a solicitor. Yes, it costs money, but it's worth it.
- Use an accountant for tax matters
- Engage professionals for valuations (property, business, collectibles)
- Don't be a hero. This is too complex to do alone.

PITFALL 8: Selling assets too quickly (or too slowly)

THE MISTAKE: Executors panic-sell property at a loss because they feel pressured. Or they delay selling for years, racking up maintenance costs and frustrating beneficiaries.

HOW TO AVOID IT:

- Get professional valuations before selling anything
- Consult beneficiaries about major sales (if appropriate)
- Don't rush, but don't delay unnecessarily
- Consider market conditions (especially for property)
- Check the Will for specific instructions about selling

PITFALL 9: Not advertising for creditors

THE MISTAKE: Executors forget to advertise for creditors. A creditor appears after the estate is distributed, and the executor is personally liable.

HOW TO AVOID IT:

- Your solicitor will handle this
- In many situations advertising for creditors helps protect an executor, but whether and how to do it depends on where you are. Your solicitor will advise whether it applies to this estate.
- Advertise in newspapers and online
- There's a minimum notice period for claims, which varies by state, so your solicitor will confirm how long you need to wait
- Don't distribute until the period expires

PITFALL 10: Paying themselves without documentation

THE MISTAKE: Executors take a fee without documenting it or getting beneficiary approval. Beneficiaries accuse them of theft.

HOW TO AVOID IT:

- Executors are not automatically entitled to a fee. You can only claim a commission if the Will allows it, all the beneficiaries agree, or the court approves it. The amount is whatever is reasonable for the work done, and the court sets an upper limit rather than a fixed rate. Check with your solicitor before claiming anything.
- Document your time and effort
- Get written approval from beneficiaries before taking a fee
- Be transparent about what you're claiming
- Consult your solicitor about reasonable fees

PITFALL 11: Assuming the Will is clear when it's not

THE MISTAKE: The Will says "divide my estate equally among my children," but one child is estranged,

or one was already given money during life. Executors guess what the deceased meant.

HOW TO AVOID IT:

- If the Will is unclear, get legal advice
- Don't interpret it yourself
- If a Will is unclear, get legal advice. In some cases a solicitor can apply to the court for directions, but this is a technical step, so let your solicitor guide whether it is needed.
- Check this organiser for additional context (especially Part 8)

PITFALL 12: Not dealing with digital assets

THE MISTAKE: Executors forget about online accounts, subscriptions, cryptocurrency, and digital photos. The estate keeps getting charged, or valuable assets are lost.

HOW TO AVOID IT:

- Check Sections 20-23 for digital asset details
- Cancel subscriptions to stop charges
- Access cryptocurrency with recovery phrases (don't lose them)
- Download photos and important files before closing accounts

PITFALL 13: Letting family pressure influence decisions

THE MISTAKE: A beneficiary pressures the executor to give them "their share" early, or to interpret the Will in their favour. The executor caves to keep the peace.

HOW TO AVOID IT:

- Your job is to follow the Will, not make everyone happy
- Be very careful about distributing early. Generally you should wait until debts and claims are sorted, and any early distribution needs all beneficiaries to agree in writing (and sometimes the court's approval). Check with your solicitor first.
- Don't let anyone bully you
- Refer difficult family members to the solicitor
- Document any pressure or threats

PITFALL 14: Not valuing assets properly

THE MISTAKE: Executors guess at asset values instead of getting professional valuations. This causes

disputes and potential tax issues.

HOW TO AVOID IT:

- Get professional valuations for:
- Property
- Vehicles
- Businesses
- Collectibles
- Jewellery
- Art
- Keep valuation reports for your records
- Date-of-death values are often the right reference point, but the correct date can differ depending on the asset and the tax position, so check with your accountant or solicitor which to use.

PITFALL 15: Missing tax deadlines

THE MISTAKE: Executors don't realise the final tax return is due, or they miss the deadline. The ATO charges penalties and interest.

HOW TO AVOID IT:

- Work with the accountant (Section 19 has details)
- There's a final tax return to lodge, and there may be estate tax returns after that. The due dates depend on your circumstances and whether you use a tax agent, so check the timing with your accountant or the ATO rather than assuming a single deadline.
- Hold off distributing until the estate's tax affairs are confirmed to be in order. What that confirmation looks like varies, so check with the accountant or the ATO before you distribute.
- Keep funds in reserve for potential tax bills

PITFALL 16: Not understanding superannuation

THE MISTAKE: Executors assume super goes to the estate automatically. It doesn't. Super is paid according to the binding nomination, not the Will.

HOW TO AVOID IT:

- Check Section 11 for super details
- Contact the super fund immediately

- Check for binding vs non-binding nominations
- Some binding nominations expire after 3 years, but many funds offer non-lapsing ones that don't. Check the actual nomination and confirm its status with the super fund.
- Super can be paid to dependants or the estate

PITFALL 17: Underestimating how long it takes

THE MISTAKE: Executors tell beneficiaries "this will be done in a few months." A year later, it's still not settled, and everyone is angry.

HOW TO AVOID IT:

- Set realistic expectations from the start
- Tell beneficiaries: "Estates usually take 6-12 months minimum"
- Explain that delays are normal
- Update them regularly on progress
- Don't promise timelines you can't control

SUMMARY: THE GOLDEN RULES

1. Don't rush. Take your time and get it right.
2. Keep detailed records. Document everything.
3. Get professional help. Solicitors and accountants are worth it.
4. Communicate with beneficiaries. Transparency prevents conflict.
5. Follow the Will. Not family pressure.
6. Don't distribute until debts are paid and ATO clearance is received.
7. Open a separate estate bank account.
8. Get professional valuations.
9. Be patient with yourself. This is hard work.

You're doing your best. That's all anyone can ask.

Your Common Executor Pitfalls & How to Avoid Them

The mistakes that catch executors out, and a box to tick once you understand each.

PITFALLS TO UNDERSTAND AND AVOID

Each pitfall is explained above. Tick it once you understand how to avoid it.

1. Distributing assets too soon (wait for ATO clearance and the creditor period)
2. Not keeping detailed records
3. Paying debts in the wrong order
4. Mixing personal and estate funds
5. Acting without probate when it's required
6. Ignoring or delaying communication with beneficiaries
7. Taking on too much alone
8. Selling assets too quickly (or too slowly)
9. Not advertising for creditors
10. Paying themselves without documentation
11. Assuming the Will is clear when it's not
12. Not dealing with digital assets
13. Letting family pressure influence decisions
14. Not valuing assets properly
15. Missing tax deadlines
16. Not understanding superannuation
17. Underestimating how long it takes

NOTES: WHICH OF THESE APPLY TO THIS ESTATE, AND HOW YOU'LL HANDLE THEM