

EXECUTOR AND ESTATE LIABILITY INSURANCE – WHAT SHOULD THE BROKER DO?

1. Brokers Professional Liability Considerations

Insurance Brokers are held to a high standard of care in identifying and documenting risk areas to which their clients may be exposed to potential financial loss. The Courts generally hold that risk exposure areas which are reasonably predictable and insurable under reasonable commercial terms, need to be identified to the client. If a client sustains a loss for which the availability of insurance has not been brought to their attention, the broker may be held liable for some or all of the client's financial loss.

2. Identifying Exposure in Your Portfolio

Executors and estate trustees (the title varies by province, but the role is the same) tend to be family members or close friends with integrity and whom are trusted by the person that names them in their Will. When people die intestate (without a Will) the Court may appoint a person to act as executor, and this may also be a family member.

Generally speaking, executors tend to be adult children. Given most mortality occurs in people over age 75, adult children acting as executor tend to be between the ages of 40 - 70, but they only commence duties upon the death of another person.

You may find this information relevant:

- There are often multiple executors appointed to an estate;
- There are as many as 300,000 estates in administration **at any time** and as many as 600,000 people acting as executor;
- Many estates are open for 24 months, with some open much longer.

If the demographics of your client portfolio include people within the ages of 40-70, there will be a significant number of them with an uninsured financial risk associated with a predictable activity performed by many people, either today or contemplated for the future.

Marketing to Your Clients