

Appointment and duties of Professional Executor

COSRT.ORG.UK INFO@COSRT.ORG.UK TWITTER: @COSRTNEWS



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Introduction

The COSRT Code of Ethics draws attention to the Member's duty to ensure continuing care for service users in the event of a sudden cessation of practice due to illness, accident, change of circumstances or death. Members also have a duty to ensure that the confidentiality of their service users' records will be maintained, and their personal data protected. These guidelines cover the appointment of a professional executor, the situations where the professional executor would be required to act and the procedures to be carried out by the professional executor.

The Member must carefully consider how, in the event of their sudden unavailability, this can be appropriately communicated to their service users. This will also include careful consideration of how a service user might be informed of a Member's death or illness and be supported to deal with such a situation, where appropriate.

What is a Professional Executor?

This is the person appointed to ensure that a Member's professional obligations to the service user and others are appropriately managed in the event of a Member's sudden cessation of practice due to disability, death or other unforeseen circumstance.

The responsibilities of a professional executor cover all aspects of the Member's professional life, psychotherapy, supervision, consultation and any other teaching or publishing commitments. Note that the remit should not be considered as extending to having legal power of attorney unless a separate legal agreement is in place.

Why is a Professional Executor Needed?

Two main areas are important. The primary one is the welfare of the Service user and Member but includes related practice matters, such as finance. The second covers other activities such as teaching, training, writing, editing, etc. A Member may choose to appoint more than one professional executor and allocate tasks appropriately.

The professional executor fulfils several functions in relation to work with service users and Members:

- They protect the Service user by ensuring that in the event of sudden cessation of practice the Service user will be informed by someone who will be able to consider their immediate and long-term needs in these circumstances and to protect their confidentiality and their personal data.

- They protect the Member's family from having to get involved with the Service users at a time when they are pre-occupied due to dealing with grief or with other issues which arise from death or a sudden disability due to accident or illness.
- They relieve the Member from anxiety about what will happen to the Service users and practice in such circumstances, thus ensuring fulfilment of the duty of continuity of care.
- They will also deal with certain financial aspects of the practice, such as the collection of outstanding fees.
- All these functions will be defined in a contract between the Member and professional executor. The executor should know where to find all the necessary documentation and contact details. By having a professional executor, the Member has the reassurance that all aspects of their professional work, as mentioned above, will be handled by a fellow professional rather than by the family and other executors.

Who would be a suitable choice for a professional executor

The tasks might be performed by a qualified therapist or counsellor bound by professional codes which cover confidentiality and data protection, or a sensitive and competent practice manager who already may be familiar with the Service user and entrusted with the confidential information.

There must be confidence that the professional executor can convey unwelcome information in a clear but sensitive manner and can carry out all the duties effectively. This includes liaising with the other executors whilst maintaining fully the Service user's confidentiality.

The professional executor may have to act swiftly, and either be available personally for the Service users or be able to mobilise appropriate resources. Hence it may be advantageous if they are local and know other local practitioners who can be called upon to help.

Situations requiring the services of a Professional Executor

Where the Member has died suddenly

- The principle here is that the professional executor is carrying out the wishes of the Member, as instructed by the Member through their agreed contract.

Where the Member is alive, but unable to communicate

- If the Member suffers brain damage through illness, a stroke or an injury, or becomes mentally incapacitated, they may be unable to manage their affairs but legally still be responsible. It can be a long and expensive process for legal powers (e.g., to manage finances) to be transferred to another person when the Member is unable to give consent.

- A safeguard against such a delay would be to grant the professional executor an Enduring Power of Attorney (with limited areas of responsibility) so that they can immediately act legally on behalf of the Member in financial matters. The professional executor would implement the agreed contract and make decisions regarding the practice.
- Where uncertainties might exist about the duration of the disability, it would be the responsibility of the professional executor to decide when and how to inform the service user of this, as would giving advice or helping Service users to find a replacement therapist.

Where the Member is alive and unable to work but able to communicate.

- Here the role of the professional executor would be simply that of communicating with service users and carrying out the Member's wishes in discussion with the Member. The professional executor in this instance would not be responsible for making decisions.

Where the Member must stop work because of a complaint against them.

- The professional executor would implement the agreed contract and make decisions regarding the practice