

## What do you need to consider as a starting point?

- **Executor** - this is the person who will administer your estate and distribute your assets in accordance with your wishes. You should choose someone who you believe to be trustworthy and who you would expect to outlive you. Often the best choice is one of your main beneficiaries, usually one of your children, however if there is likely to be any conflict between family members you may wish to choose someone independent.
- **Guardian** - if you have infant children you should discuss with your spouse who are the best persons to be the legal guardian of your children if you both pass away while they are minors.
- **Assets** - make a list of your assets, including whether they are held jointly, in companies or trusts. Do you have any personal items, jewellery or other items of sentimental value that you want to go to specific persons?
- **Beneficiaries** - these are the persons that you want to receive a part of your estate. Beneficiaries are often your spouse and your children, but you may also want to leave a gift to a charity or to a close friend or other relative. If you have young children, consider who should benefit from your estate if you all died in a common accident. You should also consider the age you want your children to have their inheritance, bearing in mind that unless you specify otherwise, 18 is the age at which they are entitled to their bequest.
- **Funeral wishes** - If you have any particular wishes relating to your funeral, you can also include this in your Will.

## Other Estate Planning Documents

### Power of Attorney

A Power of Attorney is a legal document through which you appoint someone you trust to act on your behalf in regards to your financial affairs. The document states what the attorney is authorised to do on your behalf. This can be quite narrow and specific or as general as you wish.

### Appointment of Enduring Guardian

An Appointment of Enduring Guardian is a document through which you appoint someone you trust to make lifestyle, health and medical decisions on your behalf when you lack capacity to make those decisions for yourself. For example, you can authorise your enduring guardian to decide such things as where you may need to live or what medical treatment you should receive.

### Advance Health Directive

An Advance Health Directive is a formal way of giving instructions directly to your medical practitioner on what medical treatment you want or do not want should you lose capacity to communicate those wishes. An Advance Health Directive is particularly useful when your Enduring Guardian is unable to be contacted and your medical practitioner requires instructions on what your wishes are.

Please feel free to contact us about our Estate Planning Package which includes your Will together with a Power of Attorney, Appointment of Enduring Guardian and Advance Health Directive.



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make the  
right moves

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# Wills & Estate Planning



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## Making a Will can be one of life's important decisions for the protection of your family and loved ones.



Most people are aware of the need to organise their affairs so that, in the event of their death, their estate will be distributed according to their wishes. This of course entails the drafting and signing of a legal Will. However, many people do not "get around" to having this important matter attended to. The making of one's Will is a matter that should be considered by all persons over the age of 18.

### We are able to provide services for:

- Making a Will
- Changing a Will
- Appointing Attornies & Guardians
- Making an Advance Health Directive

### How can we help you?

Our team is skilled in preparing Wills for both large and small estates. We can make sure that your estate plan leaves nothing to chance and protects your family from needless financial or legal problems. Close attention is paid to areas such as the guardianship of your children and the transfer of property.

### What is a Will?

A Will is a legal document that sets out who will receive your property and possessions when you die. These people are known as your beneficiaries. Your property and possessions include everything you own: your home, land, car, money in bank accounts, insurance policies, shares, jewellery, pictures, furniture, and so on. Making a Will is the only way you can ensure your assets will be distributed in the way you want after you die.

### Who can make a Will?

Provided you are of sound mind and at least 18 years of age, you can make a valid Will.

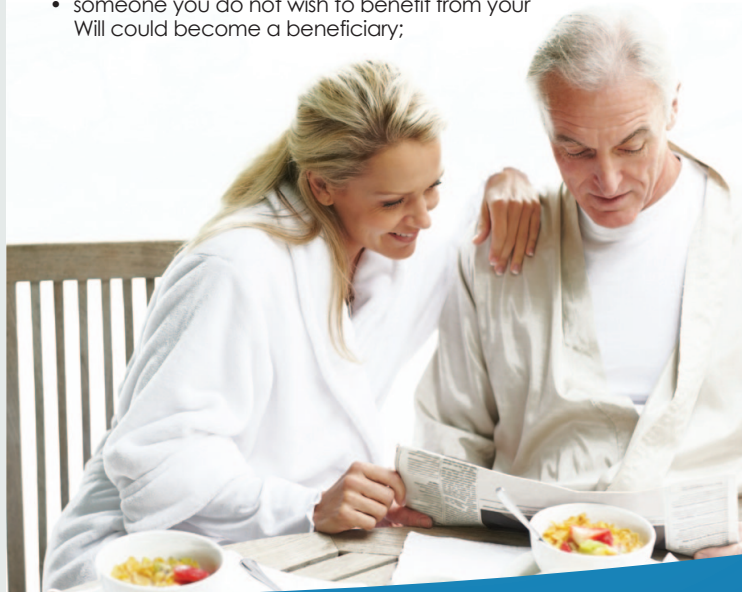
### Making a Will ensures your assets and belongings are distributed:

- to the people you want;
- to support your beneficiaries' needs;
- in the way you want;
- as quickly and simply as possible;
- as tax-effectively as possible.

### What happens if I don't make a Will?

If you don't have a Will there is no guarantee that what you would like to happen will happen. This can cause hardship to those closest to you. Your estate will be distributed under the rules of intestacy under the Succession Act (NSW) 2006. These rules are very general and are unlikely to reflect your specific wishes. For instance:

- your partner may not automatically be entitled to all of your estate;
- your partner may be forced to sell the family home or car so other beneficiaries can claim their share of your assets;
- the safety net you put in place to protect your children's future and inheritance may be lost;
- someone you may not have chosen could be appointed guardian of your children;
- someone you do not wish to benefit from your Will could become a beneficiary;



### Can I alter my Will if I change my mind?

Yes. You are free to alter your Will at any time. If your circumstances change in any way, you can and should alter your Will. However, you cannot make an alteration by, for instance, crossing something out on the original Will and writing in your new wishes. If the alterations are minor you can make a codicil (this is a separate document in which you change a provision in your Will) but it is usually better to make an entirely new Will unless the change is a very simple one. A codicil must be signed in the presence of two witnesses, in the same way as when you make your Will.

### How might divorce affect my Will?

Any gift made to a former spouse in your Will is automatically revoked when a divorce decree becomes absolute. It is in your best interest to make a new Will or codicil if you are divorced.

### If I marry, will that affect my Will?

If you made a Will prior to your marriage, it will automatically be revoked when you marry, unless it was made with that particular marriage in mind, not just marriage in general. So, if you marry, it is more than likely you will need to make a new Will.

### Key points for discussion with your solicitor

- **Ensure compliance with legal requirements so your Will is properly prepared, signed and witnessed.**
- **Ensure beneficiaries are provided for as you intended.**
- **Advise on whether a current or old Will should be changed to reflect new circumstances.**
- **Advise on what circumstances your Will could be contested by a disappointed beneficiary and how you can prevent or reduce the chances of this occurring.**
- **Advise on whether you can make a claim from an estate and the likelihood of success.**
- **Advise executors on their obligations under a Will and pursuant to the law.**
- **Provide advice where there appears to be an ambiguity in a Will.**
- **Pursue a claim on your behalf.**

"By making a Will you are protecting your loved ones interests and will be freeing them of financial worries at a time of emotional distress."