

# Estate Planning – Wills

## Why should I prepare a Will?

**A Will is a legal document which allows you to tell your loved ones how you would like your assets to be handled once you pass away.**

**There are some important things to consider:**

### What happens if I die without a Will?

If you die without a Will, there is legislation in place which will divide your assets between family members in a defined way.

The distribution that applies if you die without a Will may match your intentions, but may not. If your circumstances are complex there may be unintended consequences: for example, if you run a family business – what happens to it? Would a distribution of assets solely to your children mean your partner might not be left with enough money to continue making mortgage repayments?

If you make a valid Will, you are ensuring that your wishes will be known and that there will be less worry, stress and heartache for your family and loved ones.

### I've made a Will. Do I need to update it?

A general rule of thumb is that you should look over and check your Will every few years or after a major change in your circumstances, such as:

- getting married;
- being divorced or separated;
- increasing/ decreasing or changing your assets significantly;
- becoming a parent; or
- the changed circumstances of your children - they may have grown up and no longer need guardians, but may now be included in your estate planning in other ways – as an Executor for example.

### **What happens if I get married or divorced after I've made a Will?**

If your Will does not contemplate your future marriage, it will be automatically revoked and no longer valid once you marry.

On the flip side, if you divorce your spouse after making a Will, only the provisions providing for your spouse (not the entire Will) will be revoked.

### **I just want a simple Will – is that possible?**

Yes! We understand that it can be daunting to try to read and understand Wills. That's why we draft our Wills in plain English and make it as straightforward and easy to understand as possible.

### **What about a "Will Kit"?**

Completed properly, there are no problems with a Will Kit. That said, some common problems we have encountered with Will Kits include that:

- parts of the form are not completed or left blank;
- the Will is not signed correctly;
- it tries to distribute assets that don't actually form part of your estate – for example, assets held as a joint tenant, some superannuation or life insurance benefits, or assets held by a company or family trust;
- it doesn't cover all of your assets.

Getting it wrong can be expensive for your beneficiaries, and can cause stress and worry at a difficult time.

### **What if I have a blended family or a complicated family structure?**

Complicated family circumstances are common, but this doesn't change the fact that it can be difficult and painful to weigh up and consider the competing needs and demands of various family members. Putting these considerations off, however, does not make the issue go away.

People who thought they should have received a greater share of your assets can make a claim on your Estate by applying to the Supreme Court. A well written and considered Will may withstand a challenge but a poorly written one may not.

We can discuss the detail of your individual family circumstances with you and, where necessary, make suggestions about how best to provide for particular family members in preference to others in a way that will best allow your estate to defend any claim made against it.

### **What if I have complicated or significant business assets?**

Our Wills and estate planning services extend to more than just preparing a Will. We can advise you about the effect of complicated legal issues and business assets. You may need to consider how Company structures, family trusts and other shared ways of owning property affect the way you draft your Will. We can advise you on these matters.

It may be that your assets and circumstances may warrant a more complex legal tool, such as a Testamentary Trust. Testamentary Trust Wills can provide some tax or asset protection benefits for your beneficiaries or may be useful in circumstances where you have a vulnerable beneficiary to consider.

### **Where to from here?**

Estate planning can be complicated. You spend most of your life building up wealth for the benefit of your family and loved ones. So why waste all that effort with a poorly drafted Will?

To ensure your Will is drafted and executed properly, contact us on (02) 6163 5050 to arrange a meeting.

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## **Contact**

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