

Legitimate Solutions Legal

Wills & Enduring Powers of Attorney



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Special points of interest:

- Wills & Estate Planning
- Tips for preparing a Will
- The benefits of an Enduring Power of Attorney
- How to ensure a Guardian cares for your children
- When should you review a Will?

Inside this issue:

Wills	1
Reviewing your Will	1
Enduring Power of Attorney	1
Issues to Consider	2
Key Benefits of a Will	2
Guardianship of Children	2
Consequences of not making a Will	2

Legitimate Solutions Legal

Wills

A lot of our clients ask us about Wills and Enduring Powers of Attorney. If you die without a Will there can be a lot of upset and expense for your family to sort out your estate.

A Will allows for a sensible and orderly division of your hard worked for assets. Without a Will the estate can be tied up for some time putting pressure on the family and a distribution that you might not have intended.

There are three primary reasons to have a Will:

1. it allows you to dictate how you want your assets distributed;

2. it allows you to appoint an executor to act on your behalf; and

3. it lets you appoint a guardian to care for your minor children.

If you die without one State or Territory law will determine what happens to your estate.

Wills are vitally important for blended families and where assets are held in one name say for tax purposes but are actually joint assets.

Reviewing your Will

You should reconsider your Wills:

If the position of your family changes because of for example births, deaths, marriages or divorces;

If your financial position changes;

If death duties are reintroduced;

If you dispose of assets specifically given by your Will; or

If an executor becomes incapable or unsuitable.

It is essential that you keep your Will up to date even if it is only by reaffirming its contents in a proper testamentary document.

Enduring Power of Attorney

By giving a Power of Attorney you authorise your attorney to make decisions on your behalf. For example the Attorney can make decisions about your finances, health, wellbeing and medical treatment.

If the attorney wishes to act under the Real Property Act, for example sell houses, discharge or register mortgages etc they will need to register the Power of Attorney. You should obtain legal advice at the time if this is required.

How can I get a Will and Enduring Power of Attorney

Simply contact Legitimate Solutions Legal to arrange a lawyer to meet with you and discuss your requirements.

You can call on 02 6162 3003 or email on mail@legitimatesolutions.com.au



“Wills are vitally important for blended families”

Issues to Consider

Try and choose separate people as Executor and Guardian. Some people are better with money than with kids, but it also provides an in built check and balance. Other family members can not criticise the Guardian and allege they are spending the money for their own benefit if a third person is managing the estate.

Executors owe a fiduciary duty to act in a proper manner in relation to the estate. Try and get someone with a bit of financial nous.

Defacto relationships often form with less formality than a marriage. People look back and realise they have been living together for some time and

accumulated assets together.

Divorces and marriages negate any existing Will. Usually people want to provide for the new spouse or equally ensure the old has no chance of getting anything more.

People in blended families tend to think their situation is the most complex and can't be sorted therefore make no efforts. It might be complex but your situation has probably been considered before. Wills are vitally important for blended families. Talking to your lawyer can bring out some ideas and get the problem sorted.

“Every day people die but only a minority have made a Will”

Key Benefits of a Will

Most of us appreciate the need to protect ourselves and our families from unseen disasters. We insure our homes, our possessions and our lives so that our loved ones will be financially secure.

Yet ironically, most of the adult population fails to

take the simple steps which can be more important than any of those.

Every day people die but only a minority have made a Will (some of which are not up-to-date or valid).

“...someone you trust will raise your children...”

Guardianship of children

If both parents die what will happen to the kids? Your Will can appoint a guardian so that someone you trust will raise your children the way you want.

If there isn't a Will and no relatives come forth to be appointed guardian, your children can become wards of the state, unlikely but possible.

Both parents might have an agreement on understanding with someone to be the guardian, but unless that is in a Will you have a problem.

A sibling or grandparent might jump in disputing the apparent arrangement costing a great deal in legal fees in court.

“Avoid unnecessary grief for your family...”

Consequence of not making a Will

Not making a Will can have disastrous consequences:

- Joint bank accounts and savings can be frozen for some time;
- Thousands of family heirlooms are sold at auctions because nobody could agree who should have them;
- The Government receives millions each year in unclaimed estates from people who died without a valid Will;
- If you have children under 18 then making a Will is the only way to appoint a suitable guardian. That's a good enough reason to make a Will;
- Avoid unnecessary grief for your family by making sure there are no arguments over inheritance;
- Lessen the risks of inheritance tax (not in place as yet);
- Protect the people who depend on you, spouse, children, relatives.

By making a Will you gain real peace of mind knowing that you have taken responsibility for your affairs.

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