



What you should know about creating your will and estate plan

If you want to protect your family and assets, it's worth documenting what you'd like to happen if you can't make your own decisions later in life or if you pass away.

If you've got people in your life who you love and assets you'd like to be distributed in a certain way, you might be at a point where you're thinking an estate plan would probably make good sense.

What is an estate plan?

An estate plan involves drawing up a will, but also much more. It involves formalising how you want to be looked after (medically and financially) if you're unable to make your own decisions later in life, as well as documenting how you want your assets to be protected while you're alive and distributed after you pass away.

How does an estate plan help?

You can make your wishes known

One of the benefits of a solid estate plan is you can formalise your wishes in writing. This can help if someone challenges what you said you wanted after you pass away, or if you're unable to speak for yourself.

You could minimise disagreements

Unfortunately, disputes can happen when assets need to be distributed among people when no clear guidelines have been set.

Being prepared with an estate plan could go a long way in preventing such disagreements should family members need to divide assets among themselves or make other hard decisions on your behalf.

You may improve tax consequences for your heirs

As the distribution of assets (including your income) can come with different tax obligations, a good estate plan could minimise any tax that your heirs may need to pay.

If they decide to sell something they've inherited, for instance, they may need to pay capital gains tax depending on what type of asset it is.

Considerations when creating an estate plan.

Do you want your will to be legally binding?

A solicitor or estate planning lawyer can help you draw up a will that is legally binding and covers what you'd like to happen with your assets, children (if you have any) and funeral when you pass away.

It's important this document is kept up to date and that any changes to your situation (marriage, divorce, separation or otherwise) are accounted for, so those who matter most are taken care of.

While it's also possible to draw up your own will (there are various kits available online), these may not be adequate in complex situations, which is why engaging an estate planning professional, even if you think your situation is relatively simple, will generally be worthwhile.

Keep in mind, if your will is deemed invalid, your estate will be distributed according to the law in your state, which may not align with your wishes, and claims could be made by unintended recipients.



Who are your nominated super and insurance beneficiaries?

You might assume that how and in what proportions you want your super to be distributed can be included in your will, but this isn't necessarily the case.

You'll need to nominate your beneficiaries with your super fund and you'll also want to make sure you're across how long different nominations are valid for.

If you don't make a nomination, the super fund trustee could use their discretion to determine who your super money goes to.

Meanwhile, if you have insurance outside of super, you'll also want to make sure you've listed your beneficiaries on your insurance policy and that those beneficiaries are also kept up to date.

Will you appoint an enduring power of attorney to make decisions if you can't?

There may come a time when you're unable to make legal or financial decisions on your own because of advanced age or medical issues.

Granting power of attorney means you assign someone to make these decisions on your behalf should a situation like this arise.

For this reason, it's important to choose someone you trust, as they'll be responsible for looking after your bank accounts, ongoing bills, and even selling your house if you need to move into a care facility.

It's also worth noting that you may be able to appoint a different type of power of attorney depending on what tasks you'd like this person to carry out on your behalf. For example, you may want your son or daughter to make general lifestyle decisions for you, while you appoint a financial adviser to make financial decisions.



Have you chosen an executor to help carry out your wishes when you're gone?

Generally, an executor is the person legally in charge of managing and distributing your estate, according to the terms set out in your will, with the assistance of a solicitor.

When you nominate an executor in your will, which your solicitor should also have a copy of, it's important to let your family know, to avoid disputes after you pass away.

The executor should also have a good understanding of their duties and where your will and other important documents are kept. You may also want to let your family know where this information is stored.

The executor will typically be responsible for things like making funeral arrangements, ensuring your debts are paid and bank accounts closed, and collecting any life insurance.

They'll also usually need to apply to the court for a grant of probate, which is a legal step that's required before your estate can be distributed. A grant of probate certifies that your will is valid.

Do you need help with your estate plan?

Estate planning can be a complex process and there could be legal and tax implications if you don't set things up correctly and understand the fine print.

For these reasons, it's important to speak to a legal professional and your financial adviser before making any decisions and signing on any dotted lines.

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If you have any questions or concerns, please contact our office on
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