

How to Make a Will

What you need to do

First, make sure you need one...

If you don't have a Will, the first thing to think about is whether you are happy with the formula outlined in your state's legislation regarding how your estate will be left if you die without a Will.

In most states, a partner or spouse receives a sum of money from the estate (for example, \$100K in Victoria and \$150K in Qld) then shares the balance of the estate with their children. This could mean for example, that your child could have a claim on your house – something that could become a problem if they end up in the family law court and their ex-partner or spouse is claiming a share.

Do you have young children? A Will can be the ideal place to nominate a guardian to look after your children if you pass away before they turn 18.

Have you separated? If you pass away before the divorce comes through your Will is still valid and your partner will inherit according to your current Will.

Do you know where your superannuation will end up? Most people don't realise that superannuation does not automatically form part of their estate. This may mean that a superannuation fund trustee could pay all of your superannuation to a younger child while older children could miss out.



So you do need a Will? Time to think about what's important...

Most people don't realise that not all Wills are the same. Wills can be drawn up with and without testamentary trusts in them.

Why would you choose a Will without testamentary trusts?

- If you are leaving your beneficiaries less than say, \$300,000 each.
- If you are happy for beneficiaries to get control of the inheritance at 18 years.
- If you won't have any superannuation death benefits to leave anyone.

Why would you choose a Will with testamentary trusts? Some reasons...

- If your beneficiaries are at risk of being sued, and their assets (and the inheritance) are at risk.
- If you are concerned about a possible marriage or relationship break-up, where their assets (including the inheritance) could be vulnerable.
- If your beneficiaries include young children who could use tax benefits.
- If you want to set the age at which your beneficiaries get control of their inheritance i.e., beyond 18 years.
- If you need to provide for someone who can't manage their money.

Some things to think about when you make a Will.

Who would you like to appoint to act as executor of your Will? For most couples this is their partner but if you want to avoid having to redo your Will when your partner dies, then you should also think about including an alternate.

Do you have young children? Who would look after them if you were to pass away? Ideally you will agree this with your partner and of course, ask the prospective guardians if they are happy to do so. Whilst your wishes about future

guardians are not binding it can be a very effective way to let family members know your wishes.

And of course, most importantly, to whom do you want to leave your estate? It's a matter for you but it is important to be aware that you may be obliged to provide for someone and if you don't, your estate may be subject to a challenge. It's worth talking to a qualified lawyer about this possibility - if only to save your beneficiaries from thousands of dollars in legal bills.

Do you have debts? How do you want these to be handled? For example, if you leave a property to someone, do you want them to take over the debt?

Sometimes people want to leave sentimental items like jewellery to certain people. We suggest you think about putting these items in a gift list that is signed, dated and witnessed as a separate document.

The gift list can be referred to in the Will but if it's a separate document it can be changed at any time. This can be useful if you lose something or indeed acquire something else that you also want to leave to someone in particular.

How do you make a Will? With the right advice.

If you would like more information please contact us now on 1300 390 533. We would be happy to set up a time for an obligation free chat.

It doesn't matter where you are in Australia - we have worked with hundreds of families across the country to help them prepare the best Will for their needs. We look forward to helping you do the same.