

THE IMPORTANCE OF HAVING A WILL

Life is filled with opportunities and planning for the future is particularly important when navigating the journey. One day that journey will end and whilst most of us prefer not to think about death, it's the one thing that accompanies us from the very moment we are born. How you prepare for that event is up to you, but the planning or lack thereof will impact your loved ones, family and friends.

A WILL is one of several important documents that really matter in life. It sets out how your assets, your property, your possessions and how your wealth is to be distributed when you die.

What does a WILL do?

A WILL is a legal document. It sets out who will receive your property/assets from your ESTATE and how they are distributed. Having a valid WILL enables your wishes and instructions to be adhered to and how they are to be carried out.

What you have by way of assets and what can be given out (disbursed) to your dependants and financial dependents can truly make a difference and impact the lives of others in a positive way. Some people think they don't have enough assets in which to bequeath to others. What we deem to be valuable or not valuable can be subjective and confusing.

Important points for you to consider when making a WILL

❖ Your Executor

The person(s) you appoint as executor are the people who will carry out the instructions laid out in your WILL. An executor will often seek guidance from a qualified legal professional such as a lawyer in administering the estate and its disbursements.

❖ Your assets

It is best to accurately record assets such as a house, property, investments, cars and so forth as being owned by you within the WILL. Listing down all your property/assets and how they are to be valued and distributed is important. Having all the appropriate certifications such as title deeds, trust deeds, enduring powers of attorney (EPOA) and so forth held in the one place and noting these within a covering letter of instructions to your Executor, is a clever idea.

❖ Your beneficiaries

Beneficiaries are the people, organisations or even charities who will receive specific gifts or a share in your estate. The value and amounts paid out of an estate is the residual value that remains after the payment of any debts and testamentary expenses. Each beneficiary's share can be distributed in any proportion that is pre-determined and stated in the WILL. The disbursement can be expressed as a percentage of what remains in the estate.

❖ Your special possessions

Items that are special or carry emotional value can be named specifically in the WILL and to whom those items are to be given to.

❖ Your professional advisers

Seeking help from professionals such as your accountant, a tax professional or a financial adviser is worthwhile. Making note of the various professionals and their contact details in the letter to your Executor is important. This will enable the executor to gather relevant information and gain greater clarity and control in managing the affairs of your estate.

What happens when you die without a WILL?

It is well said that no one should die without a WILL. Why? It leaves uncertainty and potential problems for those who are left behind. Be they a surviving spouse, children, siblings, partners, ex-partners or children from blended families, all of whom may have a valid claim on the deceased's estate. If you die without a WILL, this is known as dying intestate. Within Australia, the rules that govern intestacy varies across each of the states and territories. **For example:**

- In NSW, if a person dies without a will and has no eligible relatives under the intestacy laws, then, and only then, the Estate passes to the State. The Succession Act 2006 (NSW) outlines a clear order of priority for distributing the estate to family members. The Crown is the last resort, not the default.
- In Queensland, if someone dies without a valid will, their estate passes to their next of kin, starting with a spouse or de facto partner and children

Making sure that you have a valid WILL and that it carries your wishes and instructions is particularly important.

Some important things to know

- You might have insurance cover within your super fund and not know about it. This is known as Death or Life insurance cover. Together with your account balance, the total death benefit payable from your super can be a substantial amount of money.

Under superannuation trust law, the fund's trustee can only pay the death benefit as prescribed by superannuation legislation and the fund's trust deed. The fund will pay the death benefit to a dependant such as a spouse, a child, or a person who is financially dependent upon the member at their time of death. In cases where neither exists, the trustee will consider paying the benefit to the estate i.e., where a Will exists. Where there is no Will, the fund can choose to pay the benefit to the Administrator of an estate. It is important that you nominate a beneficiary and provide instruction to the super fund as to whom the death benefit is to be paid to.

- There are several other things you should consider when organising a WILL, such as having a Power of Attorney (POA) or an Enduring Power of Attorney (EPOA). These legal instruments may assist with a person's deteriorating health condition.

They empower specific individuals whom you trust, to make decisions about your personal matters, your financial matters and the medical care that you may require.

Life's journey is never straight-forward. It can be a bumpy ride especially when we have numerous family members, financial circumstances, health and business arrangements. Your Will and organising an effective Estate Management Plan, provides the opportunity to customise and accommodate for the individual's personal circumstances.

Need more help?

There are many on-line resources available to you. A good example of this is the Australian Securities Investment Commission (ASIC) website called Moneysmart. Here you will find resourceful information to get you started.

See link below:

<https://moneysmart.gov.au/manage-your-money-in-retirement/get-help-in-retirement/wills-and-powers-of-attorney>

This fact sheet provides an overview of some the facts and the important considerations involved when making a WILL.

If you would like a PictureWealth adviser to assist you in any way, do not hesitate to contact us on 1800WELFIE (1800 935 343) or by email at Financialwellness@picturewealth.com

Important Information

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