Estate Planning

Estate planning is an important part of your overall financial plan to protect your family and yourself. This includes ensuring you have considered and implemented the following aspects:

- Your Will
- Powers of Attorney
- Guardianship Considerations

The two main aims of estate planning are to ensure that your assets (held both inside and outside superannuation) are distributed appropriately upon your death and that your finances are looked after if you are no longer able to make these decisions.

How Does the Strategy Work?

The first step is to think about what you own and who you would like to receive those assets when you pass away.

You can then specify these wishes in the appropriate legal documents or set up appropriate structures.

You may also need to consider who could manage your affairs if you are no longer able to do so, including where:

- You pass away while your children are still young - you may wish to nominate a guardian for them in your Will
- You lose mental capacity - Powers of Attorney/Guardianship will allow someone you trust to make decisions on your behalf

You should always seek legal advice before putting estate planning documents or instruction in place.

Wills

A Will is a legal document that outlines your wishes for how to distribute your assets after your death. It will only deal with assets that end up in your estate, so it does not cover:

- Jointly owned assets
- Assets held in a private company or discretionary family trust
- Insurance policies/bonds if you have nominated someone as the direct beneficiary
- Superannuation, unless the trustee pays your money to your estate

If drafted properly, a Will can help to avoid family disputes and ensuing legal costs. It is important to have a Will even if you think your circumstances are very simple.

When deciding what to include in your Will, some things to consider are:

- Identify all your assets and which ones will form part of your estate
- Decide if you want to leave any specific assets to certain individuals

- Decide who you wish to benefit from your estate - the Family Provision Legislation may require you to provide for certain family members so you should ensure they are all considered
- Choose someone to be your Executor - this can be more than one person, and they should be willing and able to accept the role

These are only a few questions to start thinking about before you speak with your legal adviser.

If you do not have a Will or your Will is invalid, you will be deemed to die intestate. This means the legislation in your state/territory will determine how your assets are distributed. This may not be consistent with your wishes.

You should review your Will regularly to ensure it continues to reflect your wishes. You should also consider whether your Will needs to be updated after major life events, such as marriage, divorce, the birth of a child, or the purchase or sale of significant assets.

Powers of Attorney

A Power of Attorney is a legal document that allows another person to undertake specified activities on your behalf. This person should be someone you trust who is willing to take on the responsibility.

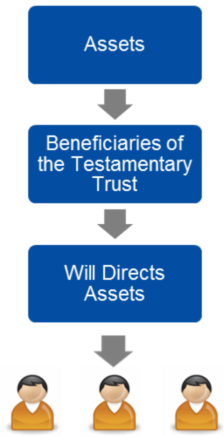
A General Power of Attorney may be for a specific action (such as selling an asset while you are overseas) or broad powers (such as being able to deal with all your financial affairs).

An Enduring Power of Attorney is often used to allow a person to act on your behalf when you are no longer able to do so yourself due to diminished mental capacity.

The legislation for powers of attorney varies across the states/territories and you should seek legal advice. You may also wish to discuss Powers of Enduring Guardianship and medical directives to give power to someone to make decisions about where you live and your health care.

Testamentary Trust

Instead of leaving assets directly to another person you may wish to include a Testamentary Trust in your Will.



Some benefits of a Testamentary Trust include:

- Children under the age of 18 may be taxed at ordinary adult marginal tax rates on eligible income distributed from a Testamentary Trust, rather than the child penalty rates, subject to the applicable tax law and the terms of the trust

- Asset protection may be available in certain circumstances, such as where a beneficiary becomes bankrupt or is involved in a relationship breakdown
- Assistance can be provided to beneficiaries with special needs (e.g. spendthrift beneficiary)

When writing instructions in your Will you need to consider who will take on the roles of:

- The Trustee - responsible for the daily running of the Trust and decides who will receive distributions
- The Appointer - has the authority to remove the Trustee and appoint a replacement

The Trust will incur fees to set up and to run. You need to consider the potential costs and weigh this up against the benefits derived.

You can set up more than one Testamentary Trust in your Will.

Medical Treatment Decision Maker

A Medical Treatment Decision Maker is a person you choose to make decisions about your health and medical treatment in the event you cannot make these decisions for yourself. If you experience an injury or illness that means you are unable to make decisions, either temporarily or permanently, if this happens to you, Victoria's Medical Treatment Planning and Decisions Act 2016 specifies who has legal authority to make medical treatment decisions for you. This person is called your medical treatment decision maker.

It is a legal appointment and must be made by you while you have the capacity to make the appointment. It is designed to last until the end of your life, unless it is revoked or cancelled beforehand.

You can appoint a Medical Treatment Decision Maker as long as you are over 18, have decision-making capacity**, and live in Victoria.**

For more information about Medical Treatment Decision Maker you can visit this link: https://www.publicadvocate.vic.gov.au/your-rights/your-healthcare/appointing-a-medical-treatment-decision-maker

Funeral Plans

By documenting any wishes that you may have regarding your funeral arrangements, your family can take comfort in knowing the plans they arrange for you will reflect the way you hoped to be remembered. This may be as simple as writing down any preferences you may have regarding a ceremony.

Important Information:

Estate planning documents, including Wills, powers of attorney, guardianship appointments and medical treatment decision-making appointments, are legal documents. You should seek advice from a qualified legal practitioner before preparing, updating or signing these documents.