



GUARDIAN
WILLS & PROBATE



**PLANNING AHEAD: A GUIDE TO WILLS
AND DECISION-MAKING DOCUMENTS**

Wills

Why is planning ahead important?

Planning ahead gives you peace of mind. It allows you to choose who will make decisions for you if you are unable to do so and ensures your wishes are followed after you pass away.

The four most important legal documents to consider are:

- Your Will
 - Enduring Power of Attorney
 - Enduring Power of Guardianship
 - (In some states) an Advance Health Directive or similar document
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What is a Will?

A Will is a legal document that sets out what you would like to happen to your assets and belongings after you die.

Your Will can specify:

- Who will receive your money, property and personal belongings.
- Who will care for any dependent children.
- Who you would like to act as your Executor.

Without a valid Will, your estate will be distributed according to the laws of your state or territory, which may not reflect your wishes.

It is important to review your Will whenever your circumstances change, such as after:

- Marriage or divorce
 - The birth of children or grandchildren
 - Buying or selling significant assets
 - The death of a beneficiary or executor
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What does an Executor do?

An Executor is the person (or people) you appoint in your Will to carry out your wishes after you die.

Their responsibilities may include:

- Arranging your funeral (if required)
- Locating your Will
- Applying for Probate if necessary
- Collecting your assets
- Paying any outstanding debts and taxes
- Distributing your estate to your beneficiaries according to your Will
- Keeping accurate records of the administration of your estate

Being an Executor is an important responsibility. Before appointing someone, you should speak with them to ensure they are willing to accept the role.

Decision Making Documents

What is an Enduring Power of Attorney?

An Enduring Power of Attorney (EPA) is a legal document that allows you to appoint someone you trust to make financial and property decisions on your behalf.

Unlike a standard Power of Attorney, an Enduring Power of Attorney continues to operate if you lose the capacity to make your own decisions.

Depending on the terms of the document, your attorney may be able to:

- Pay bills and manage bank accounts
- Buy or sell property
- Manage investments
- Deal with Centrelink, banks and government agencies
- Make other financial decisions in your best interests

Your attorney must always act honestly, in your best interests and keep your finances separate from their own.

An Enduring Power of Attorney only operates while you are alive. It ends upon your death.

What is an Enduring Power of Guardianship?

An Enduring Power of Guardianship allows you to appoint someone you trust to make personal, lifestyle and healthcare decisions for you if you become unable to make those decisions yourself.

Your guardian may make decisions about:

- Where you live
- The support services you receive
- Medical and dental treatment (where authorised)
- Your personal care and day-to-day wellbeing

An Enduring Guardian cannot make decisions about your finances or property. Those decisions are made by your Enduring Attorney.

Like an Enduring Power of Attorney, an Enduring Power of Guardianship only operates while you are alive and only if you lose decision-making capacity.

Choosing the Right Person

Whether you are appointing an Executor, Attorney or Guardian, choose someone who:

- You trust completely.
- Is responsible and organised.
- Will respect your wishes.
- Is willing and able to take on the role.
- Can make decisions calmly during difficult times.

You may appoint more than one person if appropriate.

Frequently Asked Questions

Can the same person be my Executor, Attorney and Guardian?

Yes. Many people appoint the same trusted person to all three roles. Others choose different people depending on each person's skills and experience.

Does my Attorney continue after I die?

No. An Enduring Power of Attorney ends when you die. From that point, your Executor is responsible for administering your estate.

Once I sign an Enduring Power of Attorney, do I lose control?

No. You continue to make your own decisions while you have legal capacity. Your attorney can only act in accordance with the authority you have given them and must always act in your best interests.

Can I change my mind?

Yes. As long as you have legal capacity, you can update or revoke your Will, Enduring Power of Attorney and Enduring Power of Guardianship at any time.

Can my family challenge my Will?

In some circumstances, eligible people may be able to make a claim against your estate. Obtaining legal advice when preparing your Will can reduce the risk of disputes.

What happens to my superannuation?

Your superannuation does not automatically form part of your estate. Depending on your fund and whether you have made a valid binding death benefit nomination, your super may be paid directly to your nominated beneficiary or to your estate. It's important to review your superannuation arrangements as part of your overall estate plan

Where should I keep my original Will?

Keep your original Will somewhere safe and let your Executor know where it is stored. Many people choose to leave the original with their solicitor for safe custody.

Final Thoughts

Putting these documents in place helps protect you and your loved ones.

A properly prepared Will ensures your estate is distributed according to your wishes after your death.

An Enduring Power of Attorney protects your financial affairs if you lose capacity.

An Enduring Power of Guardianship ensures someone you trust can make important personal and healthcare decisions on your behalf if you are unable to do so.

If you have any questions about these documents or your individual circumstances, please speak with one of our team. We are here to help you make informed decisions and plan confidently for the future.





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