



ESTATE PLANNING: WHY
IT'S IMPORTANT FOR EVERY
WOMAN TO HAVE AN
ESTATE PLAN IN PLACE!

E S T A T E P L A N N I N G



“Estate planning is an important and everlasting gift you can give your family”.

– Suze Orman, American author, financial advisor, motivational speaker, television host, and podcast host.

A powerful quote from a woman who knows her stuff. Estate planning is a wonderful gift to give our families and, properly prepared, is a gift that will keep on giving.



ADELE ANTHONY

FOUNDER OF YOUR LEGACY LAWYER

I'm the Principal Lawyer & Director of Your Legacy Lawyer, a boutique Wills, Estate Planning and Business Succession law practice based in Toowoomba and assist clients all over Queensland (including the Gold Coast and Brisbane) in-person or remotely. I began my work in the legal industry over 30 years ago, first as a law clerk and more recently 10+ years as a lawyer. I have a Masters in Law (Applied) majoring in Wills and Estates, a Bachelor of Laws (1st Class Honours), a Bachelor of Business (Marketing Major), and a Graduate Diploma of Legal Practice. I have previously owned other successful businesses (outside the law including a ladies only health club and day spa) giving me a well-rounded appreciation for the modern world of people, wealth and law. My aim is to do law differently by providing accessible and cost-effective legal services to Queenslanders through mobility and technology.

HELLO@ADELEMANTHONYLEGAL.COM

CONTENTS

1 INTRODUCTION

2 WHAT IS ESTATE PLANNING?

3 SEPARATED OR DIVORCING?

4 I HAVE A BUSINESS, WHO WILL RUN IT IF SOMETHING HAPPENS TO ME?

5 CONCLUSION





1

CHAPTER

INTRODUCTION

INTRODUCTION

It's important that everyone over eighteen has a sound and strategic estate plan, particularly women, because studies show women "live on average 4.1 years longer than men". This means we are more likely to live longer than our spouses, and coupled with a 14% gender pay gap in Australia, we face unique challenges in terms of protecting our money, which will need to last longer for ourselves and for our loved ones after we die.

Increasingly, more women are working full time in paid employment, in our own businesses, and are often the family's main breadwinner. We are increasingly becoming wealthy in our own right, and should be concerned about protecting our assets not only for ourselves during our lifetime, but also for our loved ones when we are no longer here.







CHAPTER 2

WHAT IS ESTATE PLANNING?

WHAT IS ESTATE PLANNING?

Estate planning provides answers to these questions:

- Who will look after me if I can't look after myself?
- How can I make sure my family are looked after financially when I die?
- Who will look after my young children if something happens to me?
- What will happen to my business if I am not able to run it?

By putting an estate plan into action early, we are giving ourselves the best possible chance of safeguarding our assets, receiving the right entitlements from our spouses when they pass, and ensuring our wealth is distributed in line with our wishes after death. It's all about having the appropriate documents in place to ensure we (in the event of incapacity) and our loved ones (in the event of our death) are taken care of.

An estate plan is always best prepared with the help of professionals and involves more than simply having a Will prepared.

It formalises how we wish to be cared for financially, personally, and medically if we are ever unable to make decisions for ourselves (temporarily or permanently).

An estate plan sets out our wishes for:

- The protection of our assets during our lifetime; and
- The distribution of our assets after we die.

This can prevent members of our family disputing the division of our assets after we die and assist them in making difficult decisions on our behalf.

Another benefit of estate planning with the guidance of professionals, is that we can eliminate or minimise the tax obligations of our estate and/or that of our beneficiaries which arise when our assets are distributed upon our death.

So what, at a minimum, do we need to have in place?

- A Will
- An Enduring Power of Attorney (for financial and personal (including health) matters)
- A Testamentary Trust (in certain circumstances)
- An up-to-date Binding Death Benefit Nomination for our superannuation

A Will

Without a Will, we have no say as to the distribution of our estate on death nor who takes control of managing our affairs. Dying without a Will means the distribution of our estate will be made using a legal formula to our relatives which may not be what we want.

An Enduring Power of Attorney

We also need an Enduring Power of Attorney to appoint a trusted person(s) to manage our affairs if we cannot do so ourselves because of decision-making incapacity.

We can choose someone now to make financial/legal decisions on our behalf such as banking, paying bills or even selling our home if required, and to also make decisions about where we live, who visits us, what doctor we see and what medical treatment we receive.

A Testamentary Trust

Estate planning lawyers often get asked:

- What happens if I die and my husband remarries: how can I ensure my children are looked after and all my hard earned wealth doesn't go to my husband's new wife or partner, especially after he dies or they break up?
- How can I ensure my children won't be disinherited if my husband remarries after I die?
- What if I want my children to benefit from my hard-earned wealth but also want my spouse to reside in our family home after my death until he remarries or dies?

The thought of our spouse remarrying or becoming romantically involved, if we die first, during the years following our death is daunting to say the least.

Similarly, the thought of our spouse dating or finding someone new to raise our children with is probably something we don't even want to think about.

However, a study has found:

- Within 25 months after a spouses' death, 61% of men (19% of women) have either remarried or re-partnered.
- The younger the surviving spouse is, the more likely they will re-marry or re-partner.
- Mentally and physically fit surviving spouses are more likely to re-marry or re-partner within 25 months of their spouses' death.

Superannuation

Superannuation is often one of our largest assets, but it does not automatically form part of our estate. This includes any life insurance cover held within the fund.

When we die, our superannuation is paid as a death benefit to our eligible super dependents which include our spouse (including a de facto partner and a same sex partner), our children (including step and adopted children); a person financially dependent upon us at the time of our death, someone we were in an interdependent relationship with at the date of our death or our legal personal representative (executor).

By putting in place a Binding Death Benefit Nomination, we give a binding direction to our superannuation fund trustee as to who we want our benefits to be paid when we die. For that reason, it's important we devote some thought as to who we want our superannuation to be distributed to when we pass away.





3

CHAPTER

SEPARATED OR DIVORCING?

Separated or divorcing?

For those of us who have recently separated from our spouses, it's so important we make an appropriate estate plan or update our current one.

I'm divorced: how does that affect my Will?

In Queensland, if we have a Will and get divorced, any of that Will's provisions appointing our ex-spouse as an executor and/or guardian of our minor children are revoked. Any gifts made in favour of our ex-spouse are also revoked. Any other provisions generally remain valid, but we should certainly not wait to update our Will particularly if any provisions are made in favour of say an ex-in-law.

It's important to note that only divorce revokes provisions in favour of an ex-spouse. Separation does not.

I'm separated but not divorced yet: does that affect my Will?

Separation doesn't revoke any provisions in our Will made in favour of our ex.

If we have a current Will gifting everything to our ex, they're entitled to everything if we die: they're still legally our spouse.

We have to wait 12 months from the date of separation until we can divorce, but we shouldn't wait until then to change our Will or make one.

I'm separated but don't have a Will

This is just as bad. If we're still legally married when we die, Queensland's intestacy rules provide that our ex will get our entire estate (where there's no children) or a huge chunk of it (where there's children).

I'm in a de facto relationship: what happens if I separate?

It was only very recently that Queensland's succession legislation provisions stated in a that Will appointing an ex de facto spouse as executor and/or guardian, and any gifts made in favour of them, are revoked at the end of a de facto relationship.

The divorce process and estate planning

Women are often affected more than men when it comes time to sort out their joint finances when divorcing.

A recent study showed 56% of married women leave decision-making for major financial planning investments to and their husbands. This leads to women often themselves in finding financial overwhelm when they get divorced.

It comes as no surprise that women's emotions are often significantly heightened during a divorce, and there are so many things to cross off their to-do-list, but it's vital they focus on their changing financial situation, particularly where children are involved, and plan ahead. Some mistakes women make at this challenging time include:

- Not reviewing their Will
- Not reviewing their estate plan for their minor children
- Not planning for all their assets (i.e. superannuation)

- Not including trusts in their estate plan
- Not formalising their financial settlement
- Not planning at all
- Not seeking help from professionals

Without professional help, many of us overlook these important aspects of planning during the divorce process.





CHAPTER

I HAVE A BUSINESS, WH O
WILL RUN IT IF
SOMETHING HAPPENS TO
ME?

I have a business, who can legally run it if something happens to me?

Are you a sole trader or a company? Do you run your business via a partnership or family trust? Does your trust have individual trustees or a company trustee?


These are extremely important questions. If something were to happen to you, who can legally take over and run your businesses?

If you own a company, it will depend on your constitution or the Replaceable Rules under the *Corporations Act*. If your business operates via a trust, it will depend on the trust deed's provisions.

Sometimes what is provided for in these documents is not what we might want so it is important we find out if we can vary the documents to ensure the appropriate succession of our business and/or make the necessary provisions in our Will and Enduring Power of Attorney.

Again, this requires the assistance of professionals.





5

CHAPTER

CONCLUSION

CONCLUSION

It's very important that women have strategic and sound estate plans in place guided by professionals and that it's done early: if we don't and something happens to us, it will be too late.

“There's nothing fun about stuff like estate planning, getting mammograms, or talking to a guy about long term disability insurance, but do it anyway. Trust me, the stress of not having done the above is prematurely aging.” -

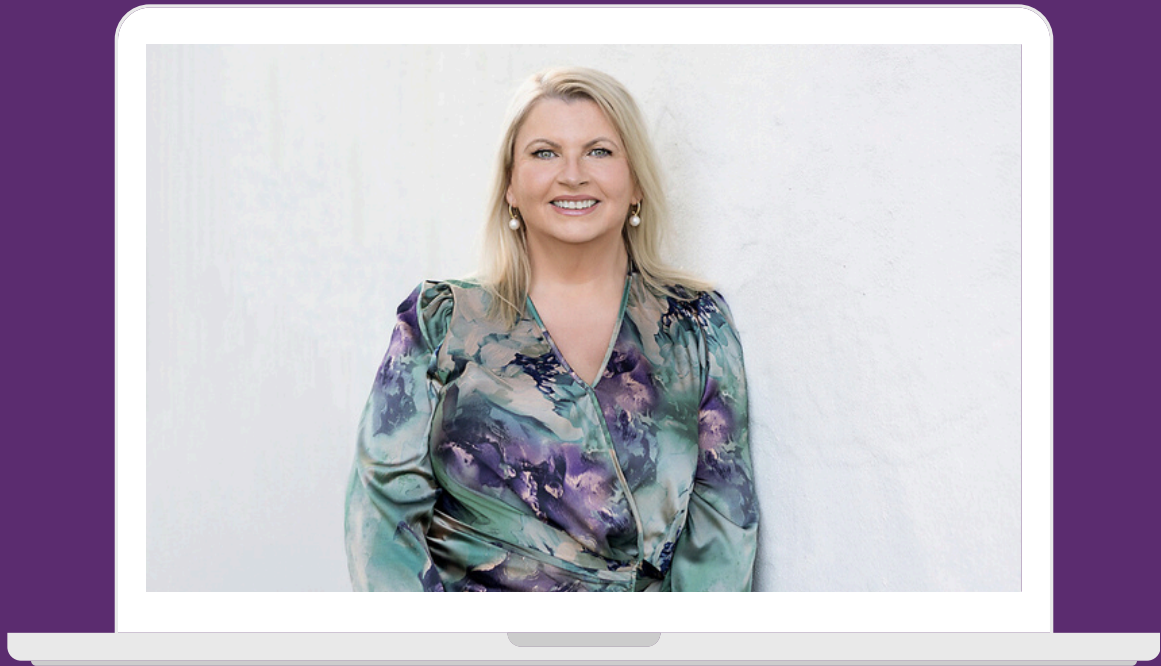
Jen Lancaster, American author whose titles have appeared on The New York Times Best Seller list.





The fact that women are likely to outlive their spouses makes an updated, comprehensive estate plan all the more important. As women, it's crucial that we take an active role in managing our finances, protecting our assets and having a clear plan for distributing those assets in the future.

-Larry Light, Senior Contributor,
Forbes



CONTACT US

Email: adele.anthony@yourlegacylawyer.com.au

Website: www.adelemanthonylegal.com

WWW.ADELEMANTHONYLEGAL.COM