

Closing out your life story

Taking care of your loved ones and your legacy

Death is a certainty that we will all experience at some point. While the time and manner of our departure is most likely a mystery to us, with careful planning we can minimise the impact on our loved ones and ensure our legacy reflects how we would like to be remembered.

An estate plan isn't just for the elderly

A common misconception is that estate planning is mainly for the elderly. Unfortunately, people can pass away at any age whether through illness, accidents or natural causes. In many cases, it can be sudden or unexpected so you may not have the time until old age to draw up an estate plan.

While having a Will in place is a good start, a properly constructed estate plan should consider a broad range of issues such as:



Mental incapacity

Once you lose mental capacity, legally you are no longer able to make decisions for yourself. Someone else has to step in and decide for you.



Family conflict

Family members may disagree with decisions either made on your behalf or ones that you made when alive. This can result in expensive and protracted conflicts if the documentation is not clear.



Financial shortfall for your beneficiaries

Without your income, your family may no longer be able to support themselves financially. Your estate may not be big enough to provide a fair split between beneficiaries.



Leakages due to tax

How your assets are passed to your beneficiaries can result in different levels of tax being paid, which means less for your beneficiaries.



Protecting vulnerable beneficiaries

You may have beneficiaries such as young children, special needs family members or spendthrift children who require special arrangements to ensure they are looked after.

Our plans at a glance

Mental Incapacity Contingency Plan

Help you prepare for contingencies in the event of mental incapacity

Estate Distribution Plan

Help you map out a clear plan for the distribution of your assets to your nominated beneficiaries

Life Protection Plan

Help ensure there is sufficient money to support your beneficiaries in the event of death

1. Conducting a stock-take of your finances
2. Drawing a family tree
3. Having a valid up to date Will
4. Accounting for non-estate assets
5. Planning for contingencies due to mental incapacity

1. Conducting a stock-take of your finances

The first step in preparing an estate plan is to itemise your assets and liabilities. This will help to create a full picture of your financial position which can assist the orderly transfer to your beneficiaries. Below are common things to itemise.



Bank accounts



Personal chattels



Super & investments



Life insurance

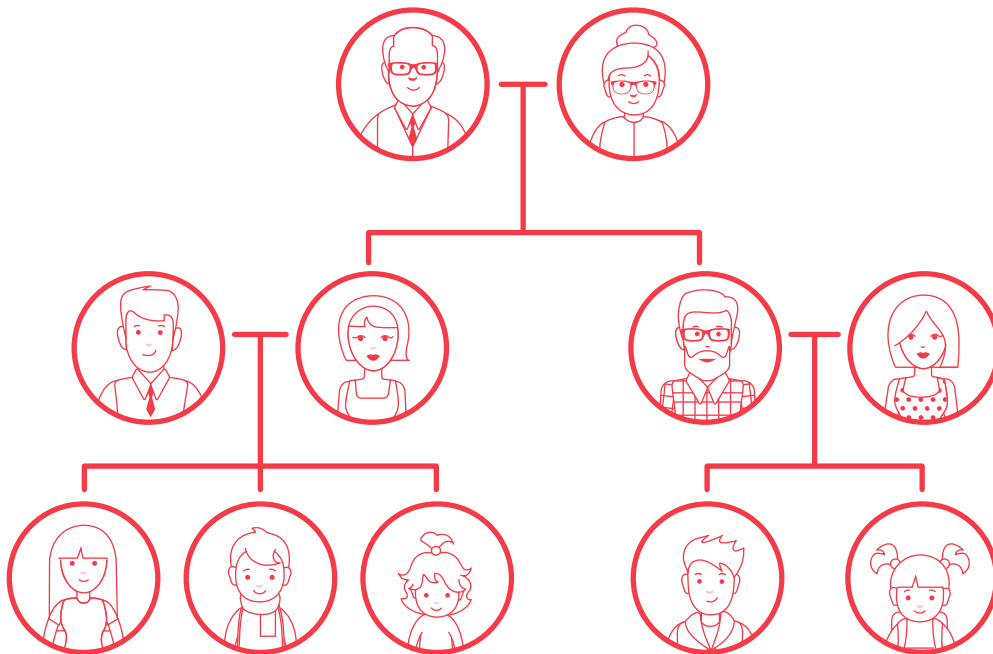


Property

A key part of this step is to also work out if there will be any financial shortfall should you pass away prematurely. Where there are significant liabilities and financial dependants such as young children or a non-working spouse, there will likely be a financial shortfall.

2. Drawing up a family tree

Drawing up a family tree can help you visualise the potential beneficiaries of your estate.



The family tree can start with living relatives like grandparents or parents where you may potentially inherit from. If you don't have your own family, it could be your parents or siblings who will inherit your assets.

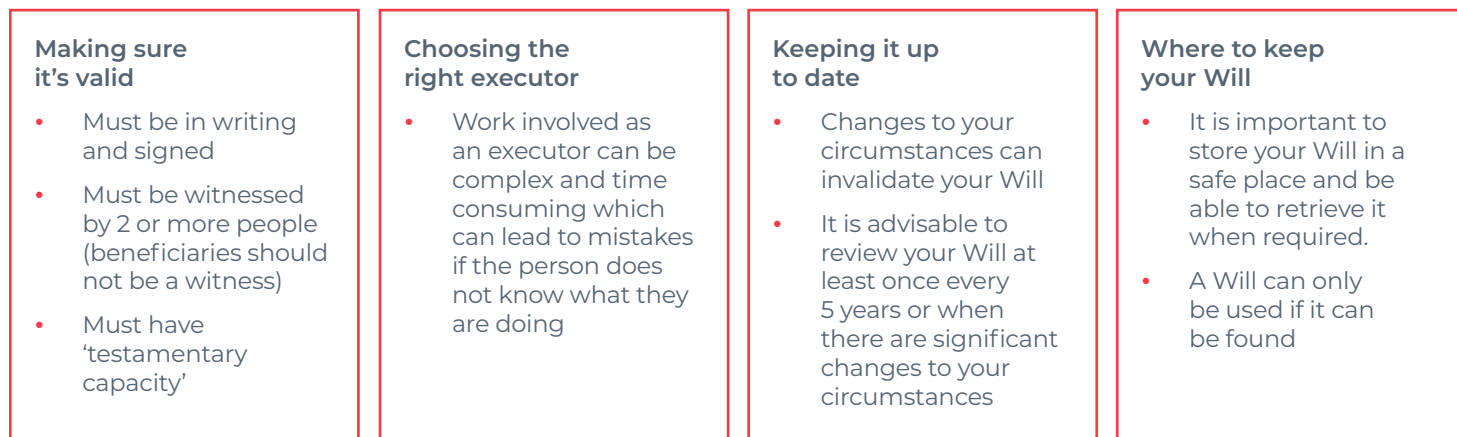
Consider the financial, physical and emotional state of your beneficiaries or dependants to see if special arrangements need to be put in place. If you have pets that need to be looked after, make plans for them too.

3. Having a valid up to date Will

A Will is a legal document that clearly sets out your wishes for the distribution of your assets after your death. Having a clear, legally valid and up-to-date Will is the best way to help ensure that your assets are protected and distributed according to your wishes.

According to NSW Trustee & Guardian, on average 45% of Australians do not have a current Will. If you die without a Will, your assets will be distributed according to a set formula with certain relatives receiving a defined percentage of your assets, despite what you may have wished.

Things to think about when drafting a Will:






Case study – The absent father who inherited

Janelle is 21 years old and didn't think she needed a Will. Unfortunately, she was killed in a motor vehicle accident during the course of her employment. She had \$200,000 in accidental death insurance cover which was paid to her estate. The estate passed to her mother and father equally since she had no Will. Her father had deserted the family weeks before she was born and had no contact with her since. However, he is entitled to \$100,000.

4. Accounting for non-estate assets

Not all assets will automatically form part of your estate when you pass away so care needs to be taken to ensure the right beneficiaries have been nominated.

Below are the most common examples:

-  **Joint ownership**
 - Assets owned in joint names will automatically transfer to the remaining joint owner upon the death of one joint owner
 - The most common example is residential property
-  **Super**
 - The trustee of your super fund has discretion on who your super should pass to upon your death
 - You can make nominations which are binding but certain rules need to be met
-  **Life insurance**
 - Life insurance is paid to the nominated beneficiary upon the death of the life insured
 - If the life insurance policy is inside a super fund then the trustee of the super fund has discretion

Making sure you are clear on who will receive these assets is important since different taxes can apply.

5. Planning for contingencies due to mental incapacity

Estate planning shouldn't be limited to the scenario where you pass away but also if you lose mental capacity to make decisions. This can arise in many different scenarios. For example:

- a serious car accident where you become critically injured and hospitalised for an extended period,
- if you suffer from dementia or Alzheimers.
- you may become terminally ill with cancer and the treatment renders you incapable of making any decisions.

The big question in these scenarios is, who gets to decide:

1. What medical treatment you receive?
2. Whether to turn off your life support?
3. How your money should be managed to the benefit of you and your family?

There are a number of legal instruments you can use to plan ahead. As the rules vary from state to state, it's important to have the right one depending on which state you reside in.



Case study – Sons drain estate of elderly parents

An elderly couple, who are in their 80s and suffer from dementia sold their farm for \$1.6 million. Unfortunately for them, one of their sons transferred the money to his own account before dividing the proceeds with his two brothers. The sons claim their mother had gifted them the proceeds.

The couple's granddaughter, in defiance of her own father and uncles, fought to retrieve the funds for her grandparents and have an independent administrator, and guardian appointed.

The State Administrative Tribunal in WA where the case was heard, found that their mother did not have the legal capacity to make such a decision to gift them the proceeds. It appointed the Public Trustee as administrator for the pair after finding they were the victims of "questionable transactions". A guardian was appointed for the mother.

Get in touch with Tribel

Contacting Tribel is easy. Call to speak to one of our advisors, or you can email us or find more information on our website.



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