



## Making your Will - Checklist

[www.perthwillscentre.com.au](http://www.perthwillscentre.com.au)

**Make sure you bring all the information below to your appointment.**

	A copy of your existing Will (if you have one)
	Full name, address and date of birth of each of your children
	Full name, address and date of birth of each beneficiary (other than your children)
	Full name and address of your executor
	Full name and address of your guardian
	A brief overview, including estimated value, of your significant assets and liabilities.
	For any business, company, family trust or self-managed super fund in which you have an interest, a copy of any trust Deeds and variations and the most recent set of financial statements".

**The information on the following pages can be used as a guide to help you prepare for your meeting with us.**

## Your assets

We'll ask you for information about your assets, superannuation and liabilities. You don't need to provide exact values, but please be prepared to give us a brief overview, including estimated value, of your significant assets and liabilities.

If you have a self-managed superannuation fund or an interest in a family trust, please bring the trust deed and any variations to your consultation. If you have an interest in a family company, business or partnership, please bring any relevant documents to your consultation.

## Your executor

Your executor is the person(s) or entity you nominate in your Will to administer your estate and carry out your wishes upon your death. You should give careful thought to the choice of executor in your Will.

Your executor doesn't need any special qualifications, but you should choose someone reliable and trustworthy. Your executor isn't bound to act for you so it is wise to talk the matter over with them first.

If your chosen executor requires professional assistance he or she can engage a lawyer or other professionals when the time comes.

You can appoint one or more executors, and you can appoint an alternative executor in case your primary executor is unable or unwilling to act after your death.

Any beneficiary in your Will can act as an executor of your Will.

The choice of executor is entirely for you but the following points may help you decide:

- If you are leaving everything to your spouse if he / she survives you then it makes sense to appoint your spouse as your primary executor.
- If you are leaving everything to your children in the event that your spouse dies before you, then consider appointing one or more of your children (over the age of 18) as your alternative executor.
- You can appoint a trusted family friend or relative.
- You can make a direction in your Will that your executor engage a solicitor such as Birman & Ride to assist them in the administration of your estate.
- You can appoint a professional executor such as the Public Trustee, a trustee company or a firm of solicitors such as Birman & Ride.

Please bring the full name(s) and address(es) of your executor(s) to your consultation:

## Specific gifts in your Will

It may be inadvisable to give specific gifts in your Will because:

- your assets will change during your lifetime; and
- your personal possessions may be lost, destroyed or disposed of prior to your death.

Your executor may allow your beneficiaries to take specific personal possessions as part of their entitlements.

If you want to leave a specific gift, please bring an accurate description of the gift(s) and the full name(s) of the beneficiary(ies) to your consultation.

## Leaving the remainder of your estate to your children

If your spouse does not survive you, it is usual to leave the remainder of your estate to your children in equal shares.

Your children includes any child for whom you are the natural parent including:

- any child you may have in the future;
- any adopted or illegitimate children; and
- any child of a previous marriage;

but **does not include step-children.**

Unless you instruct us otherwise, your children will receive their inheritance at age 18. You may specify a different age, however your children may nevertheless be entitled to their inheritance when they have all attained the age of 18 years.

If you die leaving infant children, you executor will be empowered to provide for their maintenance, education and benefit from their share of your estate.

### **What if one of your children dies before you?**

If any of your children die before you, you can elect to have their share to pass to:

- your children who do survive you;
- their children – i.e. your grandchildren – in equal shares; or
- their spouse or another person.

### **What if you don't wish to leave your estate to your children (and grandchildren)?**

If you:

- don't have any children;
- wish to leave your estate to your children unequally; or
- wish to indicate who should share your estate should all your children (and grandchildren if applicable) die before you;

then you must give the full names of your beneficiaries and the percentage share you wish each of them to take.

If any beneficiary named in this instance dies before you, his / her share will be divided pro rata between the surviving beneficiaries.

Please bring the full name(s) and relationship(s) or address(es) of your beneficiary(ies) to your consultation:

### **Consider naming a guardian for your infant children**

If you have custody of infant children you may appoint a guardian for them in your Will.

This appointment is subject to challenge on the basis that it is not in the children's best interests following your death.

You may wish to nominate the person(s) you have chosen as executor.

Please bring the full name(s) and address(es) of your guardian(s) to your consultation:

### **Superannuation**

Usually the trustee of your super fund will pay your entitlements to one or more of your dependants or to your estate. Dependant means your spouse, children of any age or another person who is financially dependent on you. Generally the trustee has some discretion as to whom payments are made. Most super funds allow you to make a Death Benefit Nomination or Reversionary Pension, by which you can direct the trustee to pay your super to certain beneficiaries or to your estate. If you would like to make a Death Benefit Nomination or

Reversionary Pension you should contact your superannuation fund. You must seek advice from a qualified and experienced financial advisor about these matters as there may be taxation advantages and broader financial considerations in choosing a binding nomination or a reversionary pension.

**Mutual Wills agreements**

In the absence of a Mutual Wills Agreement, you may revoke your Will or make a new Will at any time.

A Mutual Wills Agreement is an agreement with another person (e.g. your partner) promising not to change your Wills without the consent of the other person. Mutual Wills Agreements require careful thought and consideration. If you wish to make a Mutual Wills Agreement:

1. we can only act for one party to the agreement and we will recommend that the other party seek independent legal advice; and
2. we will give you a quote for the preparation of the agreement and any Wills following your consultation.

**Family provision**

If the Court is of the opinion that a Will doesn't make adequate provision for the proper maintenance, support, education or advancement in life of an eligible applicant the Court may, at its discretion, order that such provision be made out of the estate.

The following people may be eligible to apply for provision:

- spouse or de facto partner;
- divorcee or recipient of maintenance;
- child;
- stepchild who was being maintained by the deceased or where the deceased received property from the estate of the step-child's parent;
- grandchild (in some circumstances); and
- parent.

**Questions**

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