

PREPARING FOR OUR FIRST MEETING

We know that making a Will can be daunting, especially if you have never had a Will prepared or if it's been a long time since you last did so. There seem to be a lot of decisions to be made and legal issues to consider.

It is our job to make the whole process as straightforward and painless for you as possible. However, while we do all we can to help you make decisions, there are some jobs we simply cannot do. Estate planning is about you and your family, your circumstances, your wishes and your values. We can help you think about these decisions but they are your decisions to make.

The purpose of this sheet is not to force you to make decisions before we speak, but to help you understand the sorts of decisions you will need to make, so we can have a productive and meaningful discussion with you and produce your documents in a timely and cost effective manner.

Your Decision Makers

You will need to consider who will be the most appropriate people to make personal and financial decisions on your behalf in the event of your death or incapacity.

Ordinarily clients who come to see us as a couple will appoint each other to undertake these roles. However, you still need to consider who should act if your partner is incapacitated or predeceases you, or cannot act for some other reason.

The most common decision-making roles you will need to consider are:

- Executor(s) – responsible for administering your Estate after your death, including collecting your assets and distributing them to your chosen beneficiaries in accordance with your Will;
- Guardian(s) of minor children – to act as legal guardian of your minor children if you die. This is a separate and distinct role from that of executor and trustee; the guardian will not control funds but may be able to request access to funds for the benefit of your children;
- Enduring Attorney(s) – responsible for making financial decisions (including managing your assets) for you if you are incapacitated;
- Substitute Decision Maker(s) for health and personal decisions – this role is separate from the financial role of an attorney and **only** comes into effect if you are totally incapable of making your own decisions. The Substitute Decision Maker will be responsible for instructing your medical practitioners and making other health and lifestyle decisions, such as the kind of accommodation or care you require.

You can appoint different people to make different types of decisions. Perhaps a particular family member has an excellent 'head for business' and would be a capable and reliable executor and/or attorney but may not be the right person to make health decisions for you or look after your minor children. It is also possible that you might appoint the same person or people to take on all of these roles.

You might not have made final decisions before we meet. Nevertheless, it will make the process smoother, quicker and less expensive if you have at least given these matters some serious thought before we meet.

You should give us as much detail as you can about anybody you intend to appoint or are thinking of appointing. We will need full names and addresses, and in the case of Substitute Decision-Makers, their date of birth and telephone contact number.

Your Assets

We can give you better advice if you provide as much detail about your assets and liabilities as you are able to when we meet. The nature of your assets and how you own them can make a big difference to how we prepare your documents and the advice we give. It can be helpful for you to send a “dot point” summary of your assets and liabilities when you return the Client Information sheet before our first meeting.

Again, the most common arrangement we see is to pass assets ‘all to each other and then equally to the kids’. However, this may not suit your circumstances or your wishes and we will discuss your needs with you. You may also want to consider:

- If you want to make any specific gifts of items of sentimental, family or financial value;
- If you want to make any charitable gifts or other gifts of cash;
- Who should get the balance of your assets and in what proportion;
- Who should benefit from your assets if any (or all) of your intended beneficiaries predecease you; and
- At what age, if not 18, minors should inherit their share of your estate.

Other common questions

Your Will gives you an opportunity to address a number of matters beyond the basic questions of who will take control of your affairs and who will benefit from your assets. If relevant to you, we can discuss a number of related matters, including:

- Your funeral wishes (such as burial vs cremation);
- Balancing the needs of your partner and your wish to provide for your children (particularly relevant in many “blended family” situations);
- Farming or family business succession concerns; and
- Any concern you may have regarding protection of the future interests of your children in the event that your surviving spouse re-partners after your death.