

## Health care and medical treatment

Giving someone **enduring guardianship** allows him or her to make lifestyle decisions for you. This can give you peace of mind about your care in the future.

The person, your “guardian”, can make decisions such as:

- Where you live; and
- What health care and other personal services you receive.

In Victoria you can give a trusted person legal authority to direct your medical treatment.

## Living will

A living will (or **advance directive**) sets out what decisions you would like a doctor to make about your medical treatment in the later stages of a terminal condition. Importantly, however, a living will is *not* legally binding as the law stands now in NSW. We recommend that talk with your doctor if you intend to make a living will.

## Need to know more?

Thinking about your will and estate planning means considering your present situation, relationships with people close to you and what may happen in the future. It can be daunting and even uncomfortable. Our understanding and experienced lawyers are

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familiar with the issues that arise and will guide you to the best solution.

We would be pleased to meet with you to discuss how we can help.

## Important information

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These brief notes are for your general information. They are not a complete guide to the subject and cannot take account of your own particular circumstances. It is *very important* that you take competent professional advice before you make decisions or take any action.

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# Estate Planning

- What is estate planning?
- Will
- Superannuation & life insurance
- Power of attorney
- Health care & medical treatment
- Living will

## What is estate planning?

Most people use “estate planning” to refer to a **will** and the decisions made about what happens to property after a person’s death.

However, a comprehensive estate plan also means thinking about:

- **Superannuation and life insurance**, which are each dealt with according to the rules of the fund or policy and any nominations you have made; and
- A **power of attorney, appointment of enduring guardian and living will**, which take effect while you are still living, but unable to make decisions for yourself. This covers a wide range of circumstances, including overseas travel, incapacity following injury, illness or dementia.

The number of documents involved, the way in which they interact with each other and the different laws of each state mean that estate planning needs careful thought.

## Will

Your **will** states what happens to your property after your death.

Your instructions can be as simple or as complex as you wish – the important thing is that everything you own is included.

You can revoke your will, and make a new will, at any time. Alternatively, in some

circumstances you can alter an existing will by a simple “codicil”.

You should consider changing your will if:

- You have married, re-married or divorced;
- Any person mentioned in the will has died or changed his or her name;
- An executor moves overseas or becomes unable to act;
- You acquire or dispose of major assets;
- You have established a family trust or superannuation fund; or
- There are changes in your family situation, for instance new children or grandchildren, nieces or nephews for whom you would like to provide.

In general, it is wise to think about whether your will still reflects your wishes every three to five years.

You should think about a **testamentary trust** in your will if taxation is important or if, for example, a beneficiary has special needs, is a spendthrift or may become bankrupt.

## Superannuation & life insurance

An important part of estate planning is identifying which of your assets will *not* be dealt with by your will. **Superannuation and life insurance** are two common examples of significant assets that need to be considered apart from your will.

Your superannuation will generally pass to whomever you have named in your nominated beneficiary form – one or more people or your estate. The taxation consequences of superannuation payments mean that careful advice is needed.

Likewise, the proceeds of a life insurance policy are paid to the person you have named in the policy.

## Power of attorney

Sound estate planning also includes arrangements for decisions and actions on your behalf while you are still alive. Most commonly, you will want the confidence that someone you trust will make both financial and lifestyle decisions for you.

Giving someone a **power of attorney** allows him or her to make financial decisions for you. The person, your “attorney”, can:

- Write cheques;
- Operate bank accounts;
- Pay medical or other bills; and
- File your tax return.

Almost all powers of attorney are **enduring powers of attorney**. This means that your attorney can continue to make decisions for you even though you become unable to make them for yourself.