

WHY YOU NEED A WILL

FACT SHEET

Protect what's important to you by planning ahead. Make sure your loved ones are taken care of, and your assets are distributed how you want, if something were to happen to you.

Your estate can include things such as bank accounts, retirement savings and property, and is the process of ensuring that everything you own and any investments you may have are dealt with as you wish if you die or become unable to manage your affairs because of illness or injury.

Will

An up-to-date Will is a central part of the estate planning process. A Will is a legal document which formally spells out who will receive your assets or your "estate" in the event of your death. It also outlines any other wishes you may have, such as instructions for your funeral.

Do you have a Will? If so, is it up-to-date and does it reflect your current situation? Perhaps your financial or personal circumstances changed since you signed it, such as divorce or an unexpected death.

If you have a family or other dependants or are concerned about who would receive your assets if you passed away, then you need to make a Will and update it when necessary.

A Will:

- allows you to be confident that your affairs will be settled as you would like;
- enables your estate to be administered quickly and economically; and
- makes the process easier for your next-of-kin.

If you don't have a Will, the legal procedures are more complicated and time consuming, which may cause unnecessary worry and expense to your family.

The law sets out the procedure for the distribution of assets for someone who does not have a Will. Not having a Will may mean that your assets could be distributed in a way that you may not have wanted.

Ideally, you should update it every time your personal circumstances change, for example the birth or death of a family member, the buying or selling of a house or property, a change in medical condition, or the beginning or ending of a relationship.

Enduring power of attorney

An enduring power of attorney (EPA) is a legal document that gives someone you trust (referred to as your "attorney") the power to make decisions on your behalf if you lose the ability to make decisions yourself. There are two types of EPA; one that gives someone the power to make decisions about your personal care and welfare, such as selecting a rest home or deciding on and/or refusing medical treatment. However, this only comes into effect when you lose your mental capacity and a health practitioner has issued a medical certificate stating so, or if the court also reaches that decision. The second type gives the power to either one or more individuals or a trustee corporation to make decisions on your money and property. However, you can decide whether you wish for that to take effect immediately or only once you lose your mental capacity. In making decisions, both attorneys must follow any conditions and restrictions set out in your EPA.

The Citizens Advice Bureau shares some [things to consider when choosing to give someone power of attorney](#).

You can setup an EPA through your lawyer or trustee corporation. [You can read more here](#).

Checklist

Here are a few things to consider when planning your estate:

- How should you structure your financial affairs to retain your family assets within the family?
- Who may be able to lay claim to your estate, even if they are not a beneficiary in your Will?
- Will you need to make special provision for any beneficiaries?
- Have you recently married, separated or divorced?
- Have you chosen a suitable executor?
- Is your executor still willing and able to act on your behalf?
- Do you have a Power of Attorney?

(Visit sorted.org.nz/get-sorted/cover-your-people-money-stuff for more information).

This checklist is not exhaustive but highlights some of the important issues that you may need to consider when reviewing your estate plan. If you don't know the answers to any of these questions or have doubts about your current estate plan, talk to your lawyer or a trustee company.

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