

If you have assets or people who rely on you, it's important to plan your estate so your wishes are carried out and to prevent problems for your loved ones.

## What's estate planning?

Your estate is everything you own plus your debts. Many people associate estate planning with making a will, but this is only one aspect. For instance, some assets, such as your super and insurance, don't automatically form part of your estate and need to be dealt with separately. You also need to consider issues such as taxation, who'll take care of any children, what happens if you're incapacitated and ways to reduce potential disputes.

## Plan ahead, while you can

If you don't plan your affairs while you still can and become incapacitated or die, what happens to your estate will be determined by inflexible legal rules. This could result in loved ones having to cope with complex legal problems at a time of grief and the estate facing fees and tax, diminishing its value.

By carefully planning your estate you can decide who'll receive your assets, minimise family feuds and manage your tax. The more complicated your financial affairs, the more important this is.

## Wills

### What is a will?

A will is a legal document outlining how you want your assets, such as personal belongings, property and investments, distributed. Dying without a will is called dying intestate. If this happens, someone, usually your next of kin, needs to administer your estate. If no one wants to do this a State Trustee may be appointed. There may be delays in distributing your assets and your estate may incur unnecessary tax.

## Which assets are excluded from wills?

### Some assets aren't covered by your will

- Superannuation. You can indicate how you want your super distributed by completing a beneficiary nomination with your super fund. If you nominate your estate as the beneficiary you may deal with super in your will.
- Jointly owned investments or savings, such as a family home your spouse and you own (not as tenants in common). These assets revert to the joint owner on death.
- Life insurance policies generally allow you to name a beneficiary or your estate to receive the proceeds directly.

### How do I make a will?

You should see a solicitor to draw up your will to ensure it's valid and does everything you require.

You may also consider including a statement of reasons for any gifts to reduce disputes.

When you make a new will it overrides all previous wills. Also, marriage and re-marriage immediately revoke an existing will, but generally divorce or separation don't, so consider making a new will in such circumstances.

When Lisa died her stepchildren disputed how her home and insurance payouts were distributed. A large part of the estate was spent on settling this dispute. This could have been avoided if Lisa had taken the time to make a will.

## Executor

An executor ensures your wishes, as contained in your will, are carried out after you die. Your executor should be one or two people who are competent, trustworthy and prepared to accept the task, such as your solicitor, spouse, another relative or close friend.

The executor, often with professional help, will pay debts and tax then distribute your assets as outlined in your will and any remaining assets in line with the law.

### How do I appoint an executor?

You can only appoint an executor through your will. Be sure to ask them first and let them know where you've stored your will.

## Enduring power of attorney

An important aspect of estate planning is appointing someone to manage your financial affairs on your behalf if you were to become physically or mentally unable to. This is known as an enduring power of attorney and, unlike a general power of attorney, it remains in place even if you're unable to make decisions yourself.

You can nominate one or more people, such as your spouse, relative or close friend, and you can limit how they carry out their responsibilities or place conditions on the decisions they can make. You should consider including a medical care plan outlining your medical wishes if you become mentally incapacitated.

## How do I nominate an enduring power of attorney?

This is a separate document to your will. The easiest way to appoint an enduring power of attorney is by completing a form relevant for the state or territory you live in. You can revoke it at any time.

While Gary had a will, he didn't think it was really necessary to appoint an Enduring Power of Attorney. Unexpectedly, Gary suffered a serious brain injury after a motorbike accident and was no longer able to make his own financial decisions. Because Gary didn't appoint an Enduring Power of Attorney, the New South Wales Protective Commissioner was appointed to manage his financial affairs. As such, Gary's family has little control over Gary's finances. They're only given money when needed and can't maintain their previous lifestyle.

## Your superannuation

Your super doesn't automatically form part of your estate. Your super fund determines how your super is distributed if you die unless you make a binding beneficiary nomination.

In most cases, the people you or your super fund can choose to receive your super include your estate, spouse, child or financial dependents.

## How do I nominate an enduring power of attorney?

You nominate your beneficiaries through your super fund. You can nominate your beneficiaries in two ways:

- **Non-binding nomination:** While you advise your super fund of your wishes, the fund make the actual decision about who'll receive your super and any insurance proceeds. Your nomination is used as a guide only.
- **Binding nomination:** Provides you with certainty about who'll receive your super and any insurance proceeds. If you complete and maintain a valid binding nomination, your super fund is bound to pay your super and any insurance proceeds to the dependants you nominate and in the proportions you determine.

Go to [mine.com.au](http://mine.com.au) to download a Nominate your beneficiaries form or give us a call and we'll send one to you.

Within two years of divorcing Joyce, Michael, who had an 18 year old son, married again and had a baby. Michael hadn't given his super fund a beneficiary nomination, leaving it up to his fund to decide who should receive his super and any death insurance proceeds. When Michael unexpectedly died in a car accident, the super fund allocated his entire super and insurance proceeds to his new wife, leaving nothing for his son.

## Insurance

When planning your estate you should make sure you have enough insurance. Insurance helps protect your assets and earning capacity, so if the worst was to happen, you, or your dependants, can use your insurance proceeds rather than spend your savings or finding other ways to make ends meet.

## How do I check my insurance cover?

To find out how much insurance you have with Mine Super, login to your online account with your member number and password. From the main menu select **Manage my insurance**, then **Investment summary**.

## Testamentary trusts

A testamentary trust comes into effect when a person dies. It's used to minimise tax, provide flexibility in how and when assets are distributed, maintain existing social security entitlements and protect assets where a beneficiary becomes bankrupt, divorced or is a minor, incapacitated or a spendthrift.

However, as establishing a trust incurs costs, it's important to check the income generated by your estate would be sufficient to warrant it.

## How to establish a testamentary trust?

A testamentary trust is set up within your will.

## Young children

If you have children under age 18 you can appoint a guardian to be responsible for them if you're no longer able to care for them. However, while this communicates your intentions, your appointment isn't binding as the Family Court can override it.

## How to nominate a guardian

You can appoint a guardian in your will.

Barry and June never appointed a guardian for their five year old daughter, Suzie. When they were both killed in an accident their parents fought over the custody of Suzie, causing her considerable stress during a difficult time in her life.

## Reviewing your estate plan

It's important to regularly review your estate plan. In particular, your will and super beneficiary nominations need to be reviewed whenever your circumstances change, such as when you get married or have children.

You should also provide your executor and family members with contact details of your professional advisers and tell them where your will is located.

## Need more information or advice?

If you have any questions or need help you can get in touch with a Mine Super Financial Adviser on 13 64 63, Monday to Friday, 8am to 6pm or email [help@mine.com.au](mailto:help@mine.com.au)

Mine Super | T 13 64 63 | F 02 4962 3469 | E [help@mine.com.au](mailto:help@mine.com.au) | [mine.com.au](http://mine.com.au)

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