



# 5 Reasons Why You Should Have a Will

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~~UNPREPARED~~



Planning for your family after you pass away is difficult and uncomfortable:

But how would you feel if your assets and care of your children were arranged opposite to your own wishes?

For many people the thought of passing away and leaving behind their loved ones is uncomfortable, uneasy and even frightening.

We do not want to think about the inevitable however it is important to ensure that your wishes after you pass away are recorded in order for them to be followed.



In this publication we will highlight the 5 reasons why you should ensure that you always have a current will created by a legal professional and the benefits of having a will that you may not realise.

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# 1. Why a Will?

We all work hard during our lifetime to leave behind a legacy for our loved ones. Homemade wills and wills made with a will kit open the door for problems when you die as a will is an important document which takes technical knowledge to put together. A well drafted will by a lawyer is important for a number of reasons:-

**1. Reduce the chances of family arguments** – with a legally binding will your intentions for your asset distribution are clear and concise and assumptions about “who” gets “what” are removed leaving your family and friends to move on with their lives.

**2. Avoid the legislation deciding** – without a legally binding will the distribution of your assets will be made in accordance with the provisions of the *Administration and Probate Act 1919* even if it was not your intended wishes meaning that family and friends you wished to receive your assets may not do so.

**3. Create testamentary trusts** – a legally binding will is an opportunity to set up your estate to protect your assets for future generations through testamentary trusts. The testamentary trusts allow you to direct your trustee from the grave as to how your estate (or portion) is to be distributed in the future.



**“Happiness is a choice. You can choose to be happy. There's going to be stress in life, but it's your choice whether you let it affect you or not.” Valerie Bertinelli**

## 2. Care of Infant Children

Many people believe that should you have infant children at the time of your death and there is no legally appointed parent alive, that your chosen family or friends will automatically be appointed as guardian of your children. This is not necessarily the case.

Without a legally binding written will clearly appointing guardians of your children you risk not having your wishes taken into account when you pass away.

1. Whilst the appointment of the guardian in the will can be challenged, usually it is accepted and those guardians are selected.
2. It provides a clear indication of who you trust to look after your children and their interests.
3. Your will can also direct the guardians as to how you want your estate to be used for your children in the future.



**“Parents are the ultimate role models for children. Every word, movement and action has an effect. No other person or outside force has a greater influence on a child than the parent.” Bob Keeshan**

## 3. Estate Cost Savings



The last thing any of us want is for our estate to be reduced in value due to unexpected payments of costs.

Unfortunately this is a common occurrence in estates without a legally binding written will in place.

Some of the most common and costly issues include:-

**1. Challenge against your estate** – when your asset distribution intentions are clear and you have received sound legal advice, it is less likely that a challenge will be made against your estate, reducing the chances of your estate paying the legal fees associated with the challenge.

**2. Additional cost of obtaining Letters of Administration** – if you die “intestate” (i.e. without a legally binding written will) your family will be forced to obtain a "Letters of Administration" from the Supreme Court in instances where probate might not have been required in any event.

**3. Opportunity to audit your wealth** – planning your will is an opportunity to review how your assets are held and enables you to make changes during your lifetime in order to properly plan your estate distribution when you pass away.

**“Failing to plan is planning to fail.” Alan Lakein**

## 4. Your Resting Place



Perhaps the most uncomfortable aspect of estate planning is deciding what to do with your remains once you pass away. Many people find it hard to comprehend that such a decision should be made and the importance of this decision.

**1. Spiritual** – you may have a spiritual reason for the way in which you would like your remains dealt with and by whom. Unless you express these wishes in a legally binding written will these wishes may not be known and carried out.

**2. Cremation** – many people choose to be cremated as this allows for them to choose who they wish to receive their ashes (reducing the chances of others claiming them) and what they would like done with their ashes (e.g scattered over their favourite ocean).

**3. Buried** – for a number of reasons burial is chosen as the appropriate way in which remains should be dealt for many people. It is common that wishes such as place of burial and with whom one would like to be buried (e.g. buried next to their spouse) are made in a legally binding written will.

**“There is nothing quite so good as burial at sea. It is simple, tidy, and not very incriminating.” Alfred Hitchcock**



## 5. Choice of Executor & Trustee

When a person dies intestate then the laws of intestacy require the remaining family to choose, despite your wishes, who makes sure that all your affairs are in order, including paying all debts of the estate and notifying the bank and other business establishments.



**1. Trusted choice** - Because executors play the biggest role in the administration of your estate, you will want to ensure that you appoint someone who you believe is honest, trustworthy, and organised.

**2. Your absolute choice** - Many people do not realise that they do not have to appoint a family member and that they are free to choose who they wish (in line with the requirements under the legislation) as long as this is expressed in a legally binding written will.

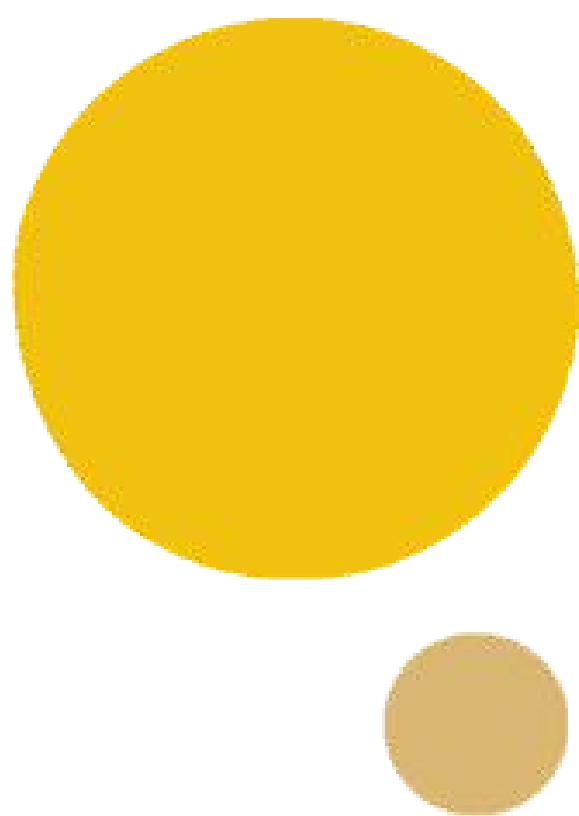
**3. Relieve stress from loved ones** - Appointing the right executor can alleviate much stress and anxiety to your family and friends left behind knowing that the estate is being administered properly.

**“Whoever is careless with the truth in small matters cannot be trusted with important matters.”**

**Albert Einstein**

If you would like to learn more about estate planning Maggie Yarak at Guarna Legal would be happy to answer any questions you may have.

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