

DISCLAIMER

This Factsheet provides an introduction to estate planning. This factsheet is **not intended to be a substitute for professional legal advice** and no reliance should be placed on the information as if it were such.

For personalised advice tailored to your specific circumstances and objectives, please consult YLP Legal. Our experienced estate planning solicitors can assist you in developing a comprehensive plan that aligns with your goals.

Liability limited by a scheme approved under Professional Standards Legislation

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Introduction

Estate planning is the process of arranging your affairs so that they can be dealt with on your behalf when you are either no longer able to do so yourself, or you have passed away. Proper estate planning protects your assets and loved ones, and ensures that your wishes are followed.

There are three (3) documents that are commonly prepared during estate planning. Each of them is listed below.

A Will

- A will is a legal document that expresses your wishes for the distribution of your estate after you have passed away.
- In your will, you can:-
 - Appoint an executor to administer your estate;
 - Make gifts of assets or funds that form part of your estate;
 - Establish trusts for the ongoing management of your assets;
 - Appoint guardians to look after your minor children; and
 - Express your wishes in relation to your bodily remains.

Powers of Attorney

- There are two types of powers of attorney as follows:-
 - A General Power of Attorney which gives a person(s) of your choice the power to deal with your financial and legal affairs while you are legally of sound mind only.
 - An Enduring Power of Attorney which gives a person(s) of your choice the power to deal with your financial and legal affairs even if you become mentally incapacitated. An enduring power of attorney ceases to be valid on the death of the donor (the person giving the power).
- In both cases, a power of attorney is an extremely powerful document, and should not be created without having received legal advice.

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Advance Care Directive

- An Advance Care Directive sets out your values and wishes in relation to your future healthcare and wellbeing.
- It allows you to appoint one or more substitute decision makers for when you are no longer legally capable of making your own decisions or expressing your wishes in relation to your health and wellbeing.
- An Advance Care Directive ceases to be valid upon the death of the donor.

Superannuation and life insurance

- Superannuation may not form part of your estate and may instead be distributed in accordance with the relevant superannuation laws and the trust deed which governs your superannuation fund.
- Sometimes, you can make a nomination that sets out what happens to your superannuation funds once you have passed away. There are various nominations that can be made :-
 - Binding death benefit nomination: this nomination allows you to nominate who will receive your death benefit and ensures that a trustee is legally bound by your wishes. It is generally valid for three (3) years and lapses if not renewed.
 - Non-binding death benefit nomination: this nomination is used as a guide by the trustee about who should receive your death benefit.
 - Reversionary beneficiary: this nomination allows you to nominate who will receive your remaining pension balance and/or income.
- Nominations may be lapsing or non-lapsing. A lapsing death benefit will need to be renewed.
- It is important to clarify whether you have made any death benefit nominations and their potential effect on your estate planning and to seek professional legal advice.