

The importance of Wills and Enduring Powers of Attorney

Having enduring powers of attorney (EPAs) and a will in place is important for every adult whatever their age. A will is a legal document that lets you decide how you want your property, care for your dependants (partner, children etc.) and your body to be dealt with after you die. EPAs allow you to appoint a trusted person(s) to make decisions on your behalf regarding your property and health when you are unable to do so yourself, during your lifetime.

Will

A well drafted will can reduce emotional and financial strain for your loved ones after you pass away. It also reduces the likelihood of family members disputing over your estate and challenging your will. Accordingly, we suggest seeking legal advice when creating a will to ensure your intentions are accurately recorded with no room for ambiguity. If your circumstances or wishes change, you can redraft your entire will or create a codicil, which is a separate binding document read together with your will.

Regardless of how much property you have, you should have a will. For example, you may have jewellery that you would like to give to a specific family member due to its sentimental value rather than monetary value.

Dying without a will is known as dying 'intestate'. This means that the Administration Act 1969 determines how your property is distributed (provided that the value of your estate is above \$15,000), which may not align with your wishes and may result in disputes over your estate. Generally, the property is distributed to a surviving spouse and family members in specified proportions. This process can be more time consuming, costly and complicated than having a valid will.

EPAs

There are two types of EPAs. One in relation to your property (including but not limited to any houses, vehicles, bank accounts, investments and household effects) and one in relation to your personal care and welfare. Under an EPA you appoint an attorney to 'step into your shoes' and make decisions on your behalf that are in your best interests.

Having an EPA in place for property allows your attorney to make decisions regarding your property, for example, if you are out the country. An EPA for personal care and welfare allows your attorney to ensure you and your property are looked after if you become mentally incapacitated.

Mental incapacity does not always arise due to old age. It can be caused by a car crash or other accident or medical event, and accordingly, it is important to have EPAs in place as soon as you turn 18. Your partner or spouse may be able to manage any jointly-owned assets but they cannot sign on your behalf if you are mentally incapable. If an incident like a car crash or stroke does happen and you do not have EPAs in place, your loved ones would have to apply to the Family Court to make decisions on your behalf. This is a very lengthy and costly process that may not align with your wishes, and is easily avoidable by creating EPAs.

We strongly recommend to seek legal advice for further information and to create a will and EPAs, sooner rather than later. It is also important to review your will and EPAs if your circumstances change.