



What you need to know: creating a Will

No one really wants to contemplate death, so we often put off drafting a Will, placing it in the 'I'll do it one day' box. But creating a Will is key to protecting your future wishes.

Procrastination is the main reason for not having a current Will, yet the actual process of creating a Will is not as difficult or daunting as it sounds.

Preparing a legal Will is the best way to ensure that when you pass away, your family and loved ones are looked after.

Using this handy guide will give you the tools to help make your Will:

Step 1: Consult a lawyer with expertise in Wills and estates

Maurice Blackburn lawyers can assist you to ensure your wishes are adequately expressed and that your Will is valid according to the law.

If you choose an online or postal 'will kit', it may be difficult to know whether you have included all the necessary information and details required. You also won't receive the benefit of legal advice about the manner in which you have chosen to distribute your assets and any risks associated with your decisions.

Step 2: Provide supporting documentation

The laws governing the legal requirements for preparing a valid legal Will in Australia vary from state to state. However, for a Will to be valid there are some basic requirements:

- You must have testamentary capacity, which means that you must be over 18 years old and understand what you are doing.
- The Will must be in writing (whether handwritten, typed or printed).
- A Will must be signed, and two witnesses (over the age of 18) need to witness your signature.
- Those witnesses must also sign the Will.

To arrange your first free consultation, contact us today:

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Step 3: Prepare ahead

You should consider the following questions and prepare in advance to ensure the relevant information contained in your Will is up to date and reflects your wishes:

- What are the names and details of the chosen beneficiaries?
- What are the names and details of their executor/s and/or trustee/s?
- How would you like to allocate and divide your property and possessions, and
- Do you require any guardianship clauses for children; this is particularly relevant to same sex couples, as the right to guardianship varies across Australia.

Step 4: Keep the Will in a safe place

There's no need to save it with any particular organisation, but once the Will has been signed off, you should keep your Will in a safe and accessible place.

Step 5: Appoint an executor and trustee

When you make a Will, you'll need to appoint an executor to look after your estate when you die. The executor must:

- Collect all your assets
- Pay all the deceased individual's debts, and
- Distribute the individual's estate in accordance with the Will.

Executor FAQs

An executor is like a liquidator who winds down the business an individual has conducted throughout their lives. A trustee (this can be the same person as the executor) is often appointed to administer any trusts set up in the Will. This scenario usually occurs when you leave assets to people under the age of 18.

A final word of advice

A Will is never a static document. Individuals will probably tweak it throughout their lives, particularly when their circumstances change significantly; for example, due to marriage, divorce or the death of a beneficiary. Above all, get the process moving - you need to work out your priorities, chat with loved ones, and seek the help of Maurice Blackburn Lawyers to guide you along the way.

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