

Getting Wills and Trusts organised

Guidelines and Tips

What is a Will?

Getting a Will is part of succession planning. It is the process of putting in place instructions as to what happens to your assets when you pass away.

Your Will is the legal document which sets out how your assets will be handled. Thinking about these things can be difficult, especially when you are young and fit. However, just like training for an event, preparing for these things helps make sure confusion and problems can be avoided later.

Why do I need a Will?

Having a Will ensures that your assets are managed smoothly and handled how you want them. Having a Will simplifies the process for your family and allows you to be in control.

Not having a Will can cause:

1. your assets to pass to people you don't want them to;
2. delays and administrative hassle for your family;
3. extra tax being payable; and
4. disputes between family members.

But what if I don't have any assets?

Even if you don't (yet!) have the benefit of huge sponsorship agreements, your personal assets may be greater than you realise. You may have a car, some savings, or sports equipment. You may have trophies, medals or other personal items that are important to you. Or you may have accumulated superannuation or be the holder of a life insurance policy.

With much of our lives now lived and stored online in the form of financial and social media accounts, many of us also hold personal wealth in the form of digital assets. It is essential that all of these are considered and directed to the people you want them to go to.

When should I think about making a Will?

It's never too early to start thinking about putting a Will in place. However if any of the following events happen, you should definitely start to consider it:

1. Having children, getting married or other family or relationship changes;
2. Illness;
3. Promotion / retirement / superannuation changes;
4. Getting an inheritance or receiving other large sums of money (sponsorship or assets);
5. Having assets overseas;
6. Investment changes; or
7. Buying / selling real estate.

What is a Trust?

A Trust is a legal relationship that involves an owner (the trustee) holding property for the benefit of other people (the beneficiaries). This relationship is established and governed by a trust deed. The trust deed sets out the parties involved in the trust, the rights and obligations of those parties, and details how procedural steps are completed.

Why set up a trust? The main reasons that Trusts are set up are for: tax effective distributions to beneficiaries, asset protection from creditors, and some family law advantages.

Other things to consider:

Power of Attorney - as a Will only comes into effect when you pass away, it is as important to consider putting in place a plan in the event that you are unable to make important decisions moving forward. Powers of attorney are documents that allow you to appoint people to make decisions on your behalf when you do not have the capacity to make them yourself.

Gifts - In your Will, you may make specific gifts (money or personal items) to family members, friends or charities and organisations that are important to you. This may include passing photographs and videos, equipment or medals and memorabilia that you have been awarded.

Residuary estate - All the assets left over after paying your debts and expenses form your residuary estate. You will need to decide who you would like to benefit and how things are divided up. You might want to leave everything to a spouse or partner, or if you have children maybe to your spouse and then to your children. Otherwise you could divide assets by leaving specific amounts or percentages to parents, siblings or other family, friends or charities.

Guardians - if you have children under the age of 18 years, you are able to nominate a guardian to act after the death of the last parent in your Will. The guardian is responsible for making welfare decisions about your children such as where they live when both parents are no longer living.

What next?

Speak to the AW&E Manager in your sport for confidential information about next steps. Through the AIS they can put you in touch with professionals in this area to help you.

The AIS also runs "Wills Workshops" a number of times a year, where you can speak to a professional and get all of these matters sorted out for you and your family free-of-charge. Ask your AW&E Manager about the next AIS "Wills Workshop" close to you!

The information in this guideline was produced by the AIS in conjunction with the sports law team at Hall & Wilcox Lawyers. It is not legal advice.

