

Plan your estate

Thorough estate planning involves putting in place strategies that address all aspects of your situation.

Often, we assume this simply involves making it clear in a Will who we would like to inherit assets if we pass away. However, while a Will can help ensure your estate is distributed according to your wishes, it may not be effective in dealing with a significant portion of your wealth.

A well prepared and executed estate plan can ensure the right assets go to the right people at the right time, in an efficient and tax effective manner. It can also ensure that if you're unable to make important financial and lifestyle decisions for yourself, the right person is able to step in on your behalf.

Understand the implications for different assets

Making sure your assets go to the right people after you pass away is not always as simple as stating your wishes in your Will. How your property is distributed may depend on a number of factors, including whether you owned an asset individually or jointly; the legal structure of ownership, if an asset is owned by more than one person; the terms of your Will; and State or Territory based legislation.

An asset you own will be categorised as either an 'estate asset' or a 'non-estate asset'.

Estate assets will automatically form part of your estate when you pass away. This means they can be passed on according to your wishes via your Will.

It's important you understand what will happen to non-estate assets when you pass away and the arrangements you may be able to make to ensure they are passed on to the people you wish.



Deciding whether to direct super and life insurance proceeds to your estate or not, will depend on your specific situation and estate planning objectives.

Prepare a Will

If you die without a valid Will, your estate assets will be distributed by a Court appointed administrator, according to the intestacy laws.

When preparing a Will, you need to decide who you should be your executor. The executor is responsible for a range of tasks, such as locating the Will, organising the funeral, arranging probate¹, collecting the assets, repaying debts and distributing the assets.

Select someone who is trustworthy, understands your objectives and capable of performing the required tasks.

While most people appoint an individual(s) as their executor, a trustee company may be an alternative in some circumstances – particularly if your estate is complicated, likely to take a long time to administer and/or suitable friends or family are not available.

A trustee company can provide expert administration and legal services and charges a fee, typically paid from your deceased estate.

If you have children under the age of 18, you should consider naming a guardian in your Will. This is not legally binding but will be considered when guardianship is determined by the courts.

If you already have a Will, you should review it frequently and update it where necessary to make sure it continues to meet your objectives and circumstances.

1. Probate is a court order that confirms the Will is valid allowing the executor to administer the estate.

Execute a Power of Attorney

By executing a Power of Attorney, you can authorise another person to manage your financial affairs when you are unable to. A Power of Attorney can cover all circumstances or a specific event (such as the sale of a house). It may also be effective for a defined period (e.g. if you travel overseas).

A general Power of Attorney will cease to be valid when you lose mental capacity. If you would like the Power of Attorney to continue to be valid, it may be more appropriate to implement an enduring Power of Attorney, which will continue to operate if you lose mental capacity. An enduring Power of Attorney is important as you get older and the chance of developing dementia and other conditions that could impact your legal capacity increases.

Unforeseen accidents that could leave you unable to manage your financial affairs can occur to anyone at any time. Importantly, you can only establish a Power of Attorney yourself if you have legal capacity, which means it is always best to plan ahead.

Make plans for your super

It's important you understand the options available for your super when you die and what you can do to ensure it's paid according to your wishes.

For many people, super represents a substantial part of their total wealth. However, super doesn't automatically form part of your estate. When you pass away, your super can be paid to certain eligible dependants or your legal personal representative (i.e. your estate).

In most cases, it is possible to make a death benefit nomination for each of your super or pension accounts. There are different types of beneficiary nominations. Most super funds offer binding nominations.

If a valid binding nomination is in place at the time you pass away, the trustees of the super fund are required to distribute your super benefits to the person(s) you have nominated or your estate if you have nominated your legal personal representative.

With non binding nominations, the trustees are not required to follow your instructions. They will be guided by what you complete in the nomination.

Fund an estate planning gap with insurance

If you have a financially dependent family and pass away, without the ongoing income you earn from working, your family could struggle to cover the mortgage, pay their living expenses and meet a range of other costs.

By taking out life insurance, you can generally ensure a suitable sum of money becomes available for your family upon your death to help meet their immediate and future financial needs.

Your estate planning checklist

Key issues to discuss with your financial adviser, solicitor and registered tax agent.

- Do you have a Will?
- Would your circumstances warrant including provisions in your Will for the creation of a testamentary trust in the event of your death?
- Have you executed an enduring Power of Attorney?
- Have you completed a valid and up to date nomination for your super?
- Will enough money (including the proceeds from insurance) become available to enable your dependants to maintain their lifestyle if you pass away?
- Are your investments and other assets held in structures that are aligned to your estate planning objectives?
- Could you benefit from passing on some of your wealth before you pass away?

Further information

For further information please contact Gavin Knight on (02) 4341 8440 or admin@paladinwealthgroup.com.au.

Source: MLC, June 2025

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