



Updating your Will

Now may be the best time to make a Will or update your existing Will...

A Will is one of the most important documents you will ever prepare in your life.

When a person dies without a Will, or with a Will that is invalid or partly invalid, significant hardship can be incurred by the deceased's family. The administration of the deceased's estate may be delayed which could result in additional costs for the family. Careful preparation of a Will can also avoid the estate being administered under intestacy laws, where government rules determine the process through which the deceased's estate is allocated. Failing to have a valid Will often leads to disappointed beneficiaries, disputes between family members, and increased costs.

An up to date Will for you and for other members of your family makes administration of an estate simpler for an executor. A well drafted Will may also minimise income and capital gains tax and reduce the potential for legal challenges.

If your circumstances, or the circumstances of your family members, have changed since making your last Will, your Will should be reviewed. Relevant changes to circumstances could include:

- The birth or death of children
- The death of an executor, a business partner or a beneficiary
- The acquisition or sale of a house, business or other significant asset
- Retirement
- Marriage
- Divorce
- Entering into or ending a de facto relationship

In many situations, you or your family members may require more than an updated Will when planning for the future. It is now common for a solicitor to also discuss a range of estate planning options with you including the preparation of additional legal documents, such as an Enduring Power of Attorney, and an Appointment of Enduring Guardian. These documents can provide greater peace of mind for the Will-maker in the management of their affairs.

and consider granting an Enduring Power of Attorney...

There are a wide range of advantages to making an Enduring Power of Attorney, no matter what your age or circumstances.



Making an Enduring Power of Attorney in favour of a trustworthy person, to take care of your property and financial affairs if you are not able to do so, is always advisable.

You can make the authority given to your Attorney as wide or as restrictive as you like. We can advise you on the likely consequences of the operation of your Enduring Power of Attorney, and the way in which it will assist you.

It is crucial to make an Enduring Power of Attorney while you have the mental capacity to do so. It is of course too late to make an Enduring Power of Attorney if you have lost mental capacity through an accident, illness etc. In these circumstances it would be necessary for a relative or friend to apply to the Guardianship Tribunal which will then appoint a 'Financial Manager' for you. Unfortunately, you have little control over this process, and it could result in an appointment which you certainly did not intend.

and making an Appointment of Enduring Guardian...

There may come a time in your life when you become unable to make your own personal, health or lifestyle decisions. If so, decisions will need to be made about things such as where you live, what medical treatment, personal services and health care you receive.

Appointing an Enduring Guardian authorises a person of your choice to make such decisions on your behalf, provided they are in accordance with the law and in your best interests. An Enduring Guardian has no authority to make decisions for you unless you become incapacitated.

It is possible for you to choose which decision making areas you want your Enduring Guardian to have, and these may be as many or as few as you like. You can also include directions to your Enduring Guardian as to how you wish for them to carry out their role.

Appointing an Enduring Guardian is a way of ensuring decisions is made by the persons you trust the most in this regard.

Bateman Battersby can assist you with all of these services, or offer you a combination to suit your particular needs in an affordable cost package. Consultation with one of our Lawyers can help to ensure that your affairs are managed in accordance with your wishes.

Please contact [Lisa Delalis](mailto:lisa.delalis@batemanbattersby.com.au) or [John Bateman](mailto:john.bateman@batemanbattersby.com.au) on (02) 4731 5899 or by email to willsestates@batemanbattersby.com.au if you would like any further information or to make an appointment about updating or preparing a Will.