

Having an up to date will is important and there are many issues you should consider to ensure your estate is in order.

Issues you should look into

- ▶ is your will up to date?
- ▶ does someone you trust have the authority to act on your behalf if you are unable to handle your affairs?
- ▶ do you need to nominate a beneficiary for your superannuation fund?

Vision Super is not licensed to provide you with personal advice on your will. However, we can provide you with some general information on estate planning. Armed with this information, you may wish to seek legal advice. Whilst we recommend you see a solicitor, will kits are available from most newsagencies.

Wills

A will is a legal document that describes who will receive your assets, and in what proportion after your death.

For a will to be valid it must:

- ▶ bear your signature
- ▶ be properly witnessed (i.e. rules apply) and
- ▶ nominate an executor.

The executor is the person who takes responsibility for ensuring that the instructions contained in your will are carried out accurately. Being an executor is a very responsible position and it can be very onerous. In some instances, disgruntled beneficiaries can sue executors. You should appoint a responsible individual or company as your executor.

Making a will is essential if you want your assets to be distributed in accordance with your wishes. If you die without making a will, you die "intestate". When this occurs, the State government administers the assets you held at death. This may mean delays in the administration of the estate, assets being split up instead of remaining intact and possibly less attractive tax treatment. Should both husband and wife die intestate together, or within a short time frame, then further complications may result and dependents may suffer.

It is also essential to ensure that your will is up to date. This ensures that your intended beneficiaries gain the full benefit of your estate. There are many instances where separation or remarriage occurs, having a significant impact on the desired asset distribution at death. Such changed desires should be recorded in an updated will. Divorce does not revoke a will. Marriage can revoke a will.

When a member of a super fund passes away and the member has binding nominated beneficiaries then the Trustee of the super fund will allocate the funds according to the instructions given by the member, generally irrespective of the instruction in the will. In other words, the nomination with the super fund overrides any instructions in the will.

Powers of Attorney

A power of attorney allows a nominated person (the attorney) to act in your place, as though he or she were you.

A power of attorney is useful where you:

- ▶ plan to be uncontactable (for example, on an overseas holiday) for long periods of time and need someone to manage your affairs in your absence
- ▶ become incapable of managing your own affairs
- ▶ wish to make provision for your medical treatment in the event that you become incapable of making such decisions for yourself.

If you become incapacitated from managing your own affairs and you don't have a power of attorney in place, one of a number of government agencies can take control of your affairs and assets.

What are three types of power of attorney?

1

General power of attorney

A general power of attorney terminates automatically upon your death or supervening mental incapacity. It is really only useful where you know that you will only require an attorney for a limited time, such as during an extended overseas or interstate holiday.

2

Enduring powers of attorney

Enduring powers of attorney continue to be effective after you cease to be competent to manage your own affairs, perhaps because of dementia or some other form of mental degeneration. Enduring powers of attorney do not authorise the attorney to make decisions concerning your medical treatment.

3

Enduring powers of attorney (medical treatment)

An Enduring power of attorney (medical treatment) allows the attorney to make decisions about your medical treatment in the event that you become incapacitated from making those decisions yourself. This power doesn't become effective until you become incapacitated from making decisions about medical treatment for yourself.



Need more help?

We know your super inside out, so you don't have to worry!

If you would like further information about estate planning, or any of our products and services, please call our Member Services team on **1300 300 820**. You can also refer to our website for forms and other fact sheets.

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