



**LEGACY** 

**Guide to Wills and Bequests**





## Guide to Wills and Bequests

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This booklet provides practical information on issues to be considered when making a will and/or leaving a bequest. It is not a substitute for legal advice. Legacy Melbourne strongly recommends that you seek independent advice when drawing up your will. Completion of the checklist on p.16-19 will be helpful when you are making your will and especially before visiting a solicitor.



*Understandably, some people do not like to think about making a will as doing so prompts one to consider one's own mortality. However, it is wise to plan for the future now.*

It is difficult enough to cope with the death of a loved one. Can you imagine how much more distressing it would be if your family had to decide themselves how to divide your assets because you had not left a valid will?

To ensure your estate is distributed in the way you intend it is vital that you make a will and keep it up to date.

# Why you should have an up-to-date will

## What is a valid will?

When a person dies leaving a valid will, any property and other assets that the person owned is distributed according to the deceased's wishes as expressed in that will. A valid will should provide clear instructions for the distribution of an estate.

## What is my estate?

The word estate refers to all the personal property and other assets owned by you or in which you have an ownership right or interest. In other words, it includes every asset that you own including savings, pensions, annuities, home, car, furniture and any other items of value.

## Who benefits from my will?

It is entirely your decision as to who you wish to benefit from your estate. Remember that your will expresses your decision regarding what is to happen to the assets you have accumulated and the possessions that you have cherished throughout your lifetime.

Those people you might consider as possible beneficiaries are:

- *Your relatives,*
- *Your friends and others who have been good to you or have helped you during difficult times,*
- *One or more charities with which you have been involved or whose work you admire.*

## What happens if I die without having a current will?

A will is the most important document to ensure that your wishes to look after your loved ones when you pass away are followed. It is therefore truly amazing that more than 40% of people die without having a current will.



When a person dies without having a valid will, that person is said to have died intestate. Any property and other assets owned by a person who dies intestate are distributed to that person's nearest blood next of kin according to the law. The first to benefit would be a surviving spouse. Should the person die intestate without leaving a spouse or domestic partner or any next of kin, the assets pass to the Crown. Under these circumstances your loved ones could be overlooked – far from what you may have intended for them.

## Can my will be challenged?

Although we can choose to whom we leave our possessions, Part IV of the Administration and Probate Act acknowledges that we may have a moral duty or an overriding social responsibility to make provisions for others.

A person who can show that the deceased had a responsibility to make provision for them can challenge the will. Challenges may be mounted by various categories of people including close relatives, the spouse including de facto (current or separated), same sex partner, children, including step-children, grandchildren, nieces and nephews, friends and carers. A person must normally bring a claim to challenge their entitlement under a will within six months of a grant of probate or administration.

## Important issues to consider:

It is important that you clearly indicate who you wish to benefit from your estate and that you name your executor/s (those who you wish to carry out the directions of your will). You could consider nominating an alternative executor should the first person you nominate be unable to undertake the task. You can appoint your spouse or an adult child if they are competent and trustworthy. It is sometimes better to make two or more persons as co-executors. Should there be some difficulty in choosing executors, or if family tensions exist, it might be better to nominate your accountant or solicitor.

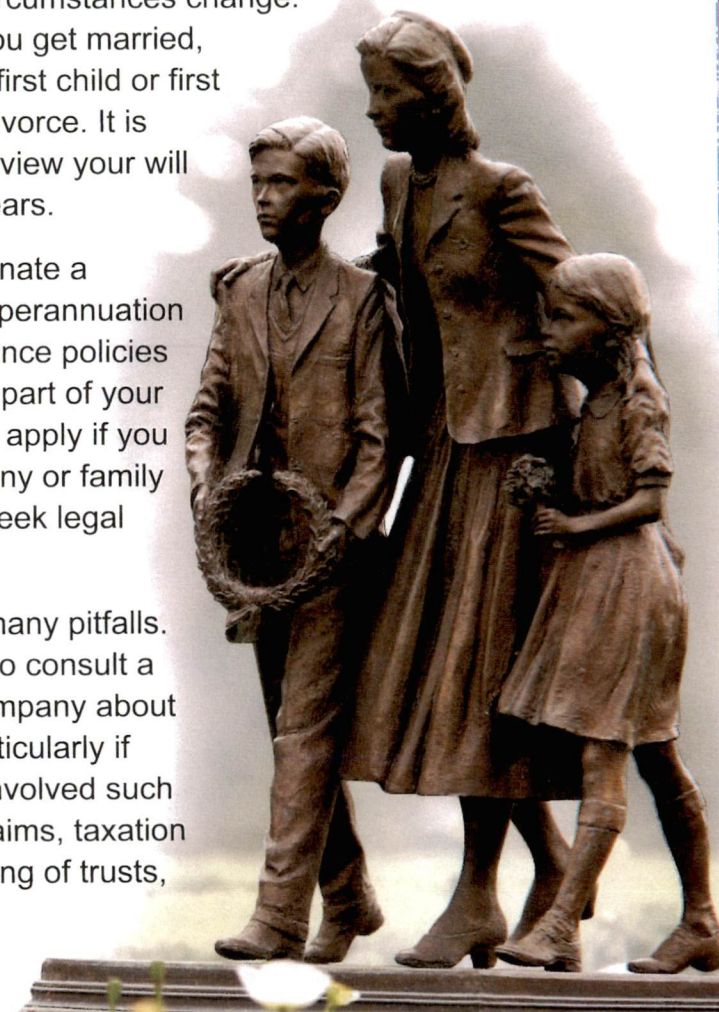
It is advisable that the will-maker and each witness sign each page of the will, or at least the last page, so that each page is identified as part of the will. The witnesses should sign below the signature of the will-maker. The will should be dated at the time of signing. Witnesses cannot be a beneficiary of the will, nor should they be married to or be a domestic partner of the people mentioned in the will. Remember to keep your will in a safe place such as with a

bank or a solicitor. Your executor or family member should be informed as to where your will is kept.

It is important to review and, if appropriate, remake your will when your circumstances change. For example, when you get married, remarried, have your first child or first grandchild, retire or divorce. It is suggested that you review your will every five to seven years.

It is important to nominate a beneficiary of your superannuation and/or your life insurance policies as they may not form part of your estate. Different rules apply if you have a private company or family trust, so you should seek legal advice.

The law of wills has many pitfalls. It is highly advisable to consult a solicitor or trustee company about drawing up a will, particularly if complex issues are involved such as potential estate claims, taxation considerations, creating of trusts, etc.



*The Legacy statue features a widow with her daughter and son. It depicts the work of Legacy which honours a World War 1 digger's promise to a dying mate to look after his missus and kids. The Legacy statue is appropriately located in the Garden of Appreciation at the Shrine of Remembrance, Melbourne.*

# Basic steps in

# making a will

## **Determine the value of your estate**

This involves listing all of your major possessions, such as your car, furniture, property, investments, superannuation, insurances and shares and determining their monetary value. You can use the checklist on p.16-19 of this booklet.

## **Decide on the beneficiaries**

Many people choose to name their family members and dearest friends in their will and then decide to leave a gift or bequest to their favourite charity.

## **Nominate guardian(s) to look after your children or dependants**

If you have children or dependants who rely on your care, it is important to give careful consideration to who you would like to take responsibility for their wellbeing in the event of your death.

## **Appoint an executor**

As mentioned earlier (pg 6), the role of any executor is to ensure that your wishes, as set out in your will, are carried out. When choosing an executor, it is important to bear in mind that the person must be trustworthy, competent and willing to devote the necessary time to deal with your affairs.

## **Choose a solicitor or trustee company**

If you do not have a family legal practitioner who can draw up your will, you may wish to contact Legacy and we will put you in touch with a qualified person who can provide the service for you.

*We cannot hold a torch to light another's path without brightening our own.*

*Bev Sweetland*

## Remembering Legacy in your will

After looking after your family and deciding who else you would like to benefit from your will, you may wish to consider leaving a gift - known as a bequest - to Legacy to help care for the families of deceased veterans.

### Help Legacy keep the promise

Legacy is a unique Australian organisation which was born out of the trenches of World War 1 when a digger made a promise to a dying mate that he would "look after the missus and the kids."

Legacy continues to help the families who have lost a loved one on operational service or subsequently, and also stands ready to do so for families of today's Australian Defence Force who lose their lives as the result of their service.

Legacy assists our widows and families with caring, compassionate support, including counselling, pensions advocacy, welfare support, financial assistance and social support. Legacy is also committed to nurturing children's education by contributing towards school fees, books, uniforms and recreational activities to aid their self development and confidence.

Over 25,000 Australian Defence Force Personnel have been deployed overseas since 1999. Each of them has the reassurance of knowing that if required Legacy will be there to care for their families now and into the future.

Legacy spends over \$10 million annually to support Legacy families. Most of those funds come from the generosity of the public. We hope that you too will join this special group of people by making a bequest to Legacy in your will.

**“ I have selected Legacy as my preferred charity because of what I have seen some widows endure and how Legacy has helped them. Many have had to nurse a spouse who was broken, not only in body but often also in mind. Many men came back from the war with serious afflictions and their wives had a lot to put up with. ”**

Marjorie Holder, a member of the Legacy Torch Society.

**“LEGACY IS KEEPING  
THEIR PROMISE  
TO MY DAD”**

CHARLOTTE

**“ Legacy has done a lot for me, I have never forgotten that it was Legacy who gave me a start in accountancy and that is why I am a member of the Legacy Torch Society. ”**

Ken Shaw.

## How to make a Bequest to Legacy

### 1. Determine which type of bequest is most appropriate for you.

See p.14 of this booklet for the different types of bequests.

### 2. Update your will to name Legacy as a beneficiary.

Information about updating your will to include Legacy is provided on the next page. Also on p.15 we have provided the legal wording to use when naming Legacy in your will.

### 3. Inform Legacy of your intention to make a bequest.

A simple form is provided on p.22 for you to complete and return to Legacy. Alternatively, you may wish to inform our Community Liaison Officer. (Refer to back page for contact details)

**Your bequest can help to ensure that our legacy of care can continue for generations to come.**

# Wording your bequest

## There are a number of different ways you can remember Legacy in your will.

We encourage you to consider which type of bequest is most appropriate for you.

- A percentage of your total estate
- The residue of your estate - this means what is left of your estate after providing for your loved ones
- A percentage of the residue of your estate
- A specific dollar amount
- Items of value (such as real estate, shares etc.)
- Life insurance policies & annuities



**Wherever possible, bequests to Legacy Melbourne should be for general purposes so that we can put your gift to the best advantage for those coming under the care of Legacy.**

**We request you use the following wording in your will should you decide to make a bequest to Legacy:**

I make this bequest free of all deductions to Legacy Melbourne, of 293 Swanston Street, Melbourne ABN 78 043 769 632.

I request that my bequest be applied for the general purposes of Legacy Melbourne and I direct that the receipt of the Treasurer or other proper officer of Legacy Melbourne shall be a sufficient discharge to my trustees.

I nominate Legacy Melbourne to receive:

- The whole of my residuary estate
- \_\_\_\_\_ % of my estate
- The sum of \$ \_\_\_\_\_
- Property, real estate, shares etc. (include details)
- Other (include details)



# Will Checklist

## Part A - Personal Details

### (Person 1)

Title: \_\_\_\_\_

First Name: \_\_\_\_\_

Surname: \_\_\_\_\_

### (Person 2)

Title: \_\_\_\_\_

First Name: \_\_\_\_\_

Surname: \_\_\_\_\_

Residential address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Suburb: \_\_\_\_\_ Postcode: \_\_\_\_\_

Daytime telephone: \_\_\_\_\_  tick if preferred contact

Email: \_\_\_\_\_  tick if preferred contact

Occupation: (person 1) \_\_\_\_\_ (person 2) \_\_\_\_\_

Date of birth: (person 1) \_\_\_\_\_ (person 2) \_\_\_\_\_

Marital status:  Married  De Facto  Single  
 Widowed  Divorced  Separated

Date of Marriage: \_\_\_\_\_

Previous Wills:  No  Yes

If YES, where is your will kept? \_\_\_\_\_  
\_\_\_\_\_

*We suggest you complete this checklist and take it with you to assist your solicitor or trustee company in preparing your will.*

*You may find that not all questions will be relevant to your situation.*

## Will Checklist (cont'd)

### Immediate family

(list children, partners etc, even if you have no contact with them):

Family Member	Address	Relationship
(1) _____	_____	_____
(2) _____	_____	_____
(3) _____	_____	_____
(4) _____	_____	_____
(5) _____	_____	_____

### Assets:

House and real estate (address) Owned solely or jointly Estimated \$ value

\_\_\_\_\_

Bank accounts (bank/branch) Owned solely or jointly Estimated \$ value

\_\_\_\_\_

Cars (make & model) Owned solely or jointly Estimated \$ value

\_\_\_\_\_

Shares/debentures Owned solely or jointly Estimated \$ value

\_\_\_\_\_

Jewellery Owned solely or jointly Estimated \$ value

\_\_\_\_\_

Other assets Owned solely or jointly Estimated \$ value

\_\_\_\_\_

### Insurance policies

Company: \_\_\_\_\_ Policy number: \_\_\_\_\_

Beneficiary nominated: \_\_\_\_\_

# Thank You



As widows grow older it can become more difficult for them to engage in activities once taken for granted. To prevent social isolation, Legacy ensures that there are avenues for regular social interaction and companionship. These social avenues are available through activities like gentle exercise, swimming, walking groups, crafts and concerts and are organised through Legacy House Melbourne.

## Your support allows Legacy to:

- Make a significant difference to the lives of children by assisting with their education, recreational and extra curricular activities.
- Offer the children interesting stimulating activities that are structured to help with personal development, maximising each individual's potential.

Legacy gives high priority to supporting our dependants with a disability to access community services which meet their goals, interests and needs. Legacy assists these dependants to enrich their lives through participation in a structured program of activities overseen by professional staff and volunteers.



# Confidential Reply Form



## Your details

Title (please circle) Mr, Mrs, Miss, Ms, Dr

Given Names \_\_\_\_\_

Last Name \_\_\_\_\_

Street Address \_\_\_\_\_

Suburb/Town \_\_\_\_\_

Postcode \_\_\_\_\_ Date of Birth \_\_\_\_\_

Telephone: Home \_\_\_\_\_ Work \_\_\_\_\_

Mobile \_\_\_\_\_ Email \_\_\_\_\_

## Your intention to bequeath:

- I intend to leave a gift to Legacy in my will.
- I have already included Legacy in my will and am honoured to join the **Legacy Torch Society**.
- I am considering leaving a gift to Legacy in my will but require further information to assist my decision.

## Please return this form to:

*The Community Liaison Officer  
Melbourne Legacy  
Reply Paid 4312  
Melbourne VIC 8060*

Thank you for your support.

The information you provide will remain strictly confidential and will help us to ensure our records are accurate.

Our Community Liaison Officer will be in touch with you shortly to discuss details and welcome you to the **Legacy Torch Society**.



## The Legacy Torch Society

When you inform Legacy of your intention to make a bequest, you automatically become a member of the **Legacy Torch Society**. All members of this special group of people will be honoured for their thoughtfulness and generosity.

As a **Legacy Torch Society** member you will be invited to special events where you can meet other members and hear about Legacy's vital work. In addition you will be presented with a Certificate of Appreciation, an attractive lapel pin and, in due course, your name will be listed in the Benefactors' Honour Roll, should you so desire.

There are no membership fees or obligations other than naming Legacy Melbourne as a beneficiary of your will.

## Legacy Melbourne

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[www.legacy.com.au/melbourne](http://www.legacy.com.au/melbourne)

*They shall not grow old, as we that are left grow old  
Age shall not weary them, nor the years condemn  
At the going down of the sun and in the morning  
We will remember them*

*Lest we forget*



**DISCLAIMER**

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