

# WILLS

A Will is a document that sets out how you want your assets and affairs dealt with after you die. It is legally binding, and cannot be changed after death without application to the Court.

## WHAT SORT OF THINGS COULD YOU INCLUDE IN YOUR WILL?

- You want to leave money to your partner, children, or someone else
- You want to leave your jewellery or pets to a family member
- You want to make a gift to a charity
- You want to appoint a testamentary guardian of your children
- You want to be buried or cremated and your ashes scattered in a certain place

## WHEN SHOULD YOU UPDATE YOUR WILL?

If you change your mind about anything substantial, or your circumstances change, you should update your Will. A change of circumstances could include separating from your partner, having children, buying your first house, winning lotto, getting married, or your intended guardian of your children dies.

## Contact Us

Your Estate Planning Law Experts

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Wills, Enduring Powers of Attorney, Living Wills...

# ESTATE PLANNING

M A C T O D D

L A W Y E R S

E S T A T E P L A N N I N G



# EPOAS

## ENDURING POWERS OF ATTORNEY

EPOAs are documents that appoint someone to look after your property affairs and personal care matters, should you become mentally incapacitated and unable to make, communicate or understand your decisions.

### THERE ARE TWO TYPES OF EPOAS

**Property** = everything you own, including bank accounts, land, investments and general financial affairs.

**Personal Care and Welfare** = decisions about your health, well-being, enjoyment of life and medical decisions.

### WHO SHOULD YOU APPOINT?

You need to think carefully about naming the right person/s as your attorney. You are giving them a lot of responsibility and they can be called on to make decisions when you are no longer able to do so. It is important that you trust your attorney to make the right decisions for you.

### WHEN DOES AN EPOA TAKE EFFECT?

A **Personal Care and Welfare** EPOA only comes into effect if you (the donor) have been medically certified as mentally incapable. The personal care and welfare attorney can only make important decisions if a doctor has signed a certificate to say you are mentally incapable. For other personal care and welfare decisions, the attorney must have reasonable grounds for thinking you have become mentally incapable.

For a **Property** EPOA, you have a choice. You can decide that the Property EPOA is to be effective only if you are mentally incapable, or it can be effective as soon as you sign it. This can avoid the need for a medical certificate and can be useful if you are overseas or temporarily unavailable to deal with your finances - We can advise you and help you with that decision.

### WHAT IF YOU DONT HAVE AN EPOA?

If you have an accident, event or episode, lose capacity and you don't have EPOAs in place, your spouse/partner or wider family may need to apply to the court to obtain an order to act on your behalf. This is both an expensive and stressful process.

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## LIVING WILLS

### *“Advance Directives”*

An Advance Directive can provide a way for you to gain more control over any treatment and care you are given if you experience an episode or event that leaves you unable to decide or let others know what your preferences are at that time.

It can stipulate what treatments, drugs or other medical procedures you want to be given or not. It could state the place you would like to receive those services should you experience such an episode, for example, your home.