Keep it in the Family

ESTATE PLANNING WITHOUT THE JARGON

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Contents

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4. Legal advice; and
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You should seek independent professional advice before making any decisions based on this information. If advice are required, we will refer you to one of our network of service providers, who will enter into an engagement for services with you to provide the advice needed.

About This Book

This book was written to make estate planning straightforward and approachable for Australian families.

Too often, I meet people who don’t have any estate plan in place, and it scares me for them. There’s so much focus on creating wealth but very little on protecting it—like building a house without a foundation. I believe most families want to leave a legacy of love, not a legal mess. And this book is here to guide you in avoiding that mess, step by step.

I understand that planning for the future can feel overwhelming, especially with all the legal jargon and complex ideas involved. That's why I've simplified the process, written in plain language, and broken everything down into easy-to-understand steps.

Throughout this book, you’ll learn about the key tools that make up a successful estate plan—like Testamentary Trust Wills, Enduring Powers of Attorney, and strategies to ensure your loved ones are looked after without unnecessary stress. You’ll find real-life examples, practical advice, and tips on avoiding common pitfalls—all designed to empower you to take charge of your family's future.

My goal is not just to help you create wealth but also to protect what matters most, minimise taxes, and ensure your wishes are honoured. Whether you're starting fresh or updating an existing plan, this guide will help you make informed decisions every step of the way.

Let's start securing your family's future together, with confidence and clarity.

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KEEP IT IN THE FAMILY:
ESTATE PLANNING WITHOUT THE JARGON

Introduction to Estate Planning

Not Just for The Wealthy

Estate planning isn’t just for the wealthy—it’s for everyone who wants to make sure their wishes are carried out. It’s about making sure your loved ones are looked after and have clear guidance. Think of it as a way to leave behind less confusion and more comfort for those you care about.

The term 'estate' in estate planning simply means everything you own—your assets, properties, belongings, and even debts. It includes your home, savings, investments, cars, and personal items, as well as any financial obligations you might have. Estate planning is about making sure all these things are handled the way you want when you’re no longer around, ensuring your loved ones get what you intended in the smoothest way possible.

Many people think estate planning is only for older people or the wealthy. This couldn’t be further from the truth. Estate planning is important for anyone with a family, even if you’re young and healthy—because life is unpredictable.

For example, when Sarah, a young professional, passed away unexpectedly without an estate plan, it left her family dealing with court-appointed administrators and extra expenses that could have been avoided. To complicate things further, she had a life insurance policy worth hundreds of thousands of dollars inside her super fund, which required additional work from her family with her super fund trustees. It was a real mess.

Key Components of a Good Estate Plan

Testamentary Trust Wills

The term "testamentary" is just a fancy way of saying something is related to your will. A Testamentary Trust Will is a type of Will that contains provision of a trust that only comes into effect after you pass away, as described in your will. Think of it like a safety net for your loved ones—it ensures that your assets are taken care of and distributed the way you want, protecting your family members and helping them manage their inheritance until they're ready to handle it responsibly.

Enduring Powers of Attorney

Enduring Powers of Attorney (EPOA) are crucial to give someone the authority to make decisions for you when you can't—whether those are financial or medical. This means your finances can be managed without delay, and your healthcare decisions are in trusted hands. These powers will also *'endure'* until cancelled or until you pass away.

Guardianship for Your Children

If you have young children, one of the most crucial parts of your estate plan is deciding who would care for them if you weren't around. Imagine a situation where something unexpected happens, and there is no clear plan for who will look after your kids. Without appointing a guardian, this decision could end up in the hands of the courts—people who don't know your family, your values, or your wishes. This can result in outcomes that aren't what you'd want for your children.

By including a guardianship provision in your estate plan, you can retain control of their future. It means you get to choose someone you trust—someone who understands your values and will raise your children in a way that you would be happy with. This simple step gives your children stability and care during what would already be an incredibly difficult time. Knowing that their future is secure, no matter what happens, will also give you tremendous peace of mind.

By including a guardianship provision in your estate plan, you ensure that your children are raised by someone you trust—someone who shares your values and understands your wishes for their upbringing. This not only provides stability and care for your children during an incredibly challenging time but also offers peace of mind knowing that their future is secure, no matter what.

Example: Lisa was a single mother with two young children. She tragically passed away unexpectedly without naming a guardian in her estate plan. As a result, her children ended up in the custody of a distant relative, appointed by the court, despite Lisa's parents being willing to take care of them. The lack of clear instructions led to a lengthy and emotionally draining legal battle between Lisa's parents and the distant relative, creating instability and distress for her children. If Lisa had included a guardianship provision, she could have ensured her children were placed with someone she trusted—providing stability and care, as she would have wanted.

Superannuation and Estate Planning

Super Surprise #1: Super Is Not Automatically Part of Your Estate

In Australia, superannuation (or 'super') is one of the most significant financial assets many people hold. It’s basically a retirement savings account that can be worth a lot of money after a lifetime of contributions and investment growth, but unlike your other assets, it doesn’t automatically become part of your estate when you pass.

Super Surprise #2 Your Super May Be Bigger Than You Think

Many people I speak with also hold life insurance inside their super fund, which means the value of their super can be much larger than expected when they pass away. This is usually a surprise to them, along with the regular insurance premiums they’re paying, as they usually only pay attention to the dollar value of their accumulated super balance.

Super Surprise #3
You Can Tell the Boss What to Do

If you don’t make an explicit nomination, your super, and any life insurance benefits, won’t automatically become part of your estate when you pass away. Instead, the trustee (who is *‘The Boss’* of your super fund) will decide who gets it. This can be risky, especially if you’ve separated or divorced, as your super could end up going to an ex-spouse. It’s important to take control by giving clear instructions to your super fund, so your super goes to the people you really want to benefit.

Role of the Super Fund Trustee *(The Boss)*

The super fund trustee has the power to decide who receives your death benefits unless there is what we call a Binding Death Benefit Nomination (BDBN) in place. Without this nomination, the trustee might distribute your super in a way that doesn’t align with your wishes, potentially causing stress and complications for your loved ones.

A BDBN is a legal instruction you give to your super fund, directing who should receive your super balance when you die. To have ultimate control over your super, you can nominate your estate as the beneficiary, meaning that your total super benefits (including any life insurance) will be paid into your estate and distributed according to your Will. This means you have the power to tell the '*The Boss'* what to do with you super. And it's crucial for ensuring that your super forms part of your overall estate plan and is managed in line with your wishes. Just doing this one simple thing will avoid potential headaches for your loved ones.

Example: Consider Jane, who had a significant amount in her super fund but no BDBN in place. When she passed away, the trustee of her super fund decided to distribute her super to her adult children (which they paid a lot of tax on!), instead of going to her partner. If Jane had put a BDBN in place directing her super to her estate, it would have been distributed according to her Will, ensuring all her loved ones were provided for as she intended, and in the most tax efficient way.

Benefits of Testamentary Trust Wills

A Testamentary Trust Will can reduce taxes through income splitting, which means allocating income to beneficiaries who might pay less tax.

For example, John used a Testamentary Trust Will to leave his estate to his two children—Emma, a high-income earner, and Chris, who was still a student. More income went to Chris, reducing the family's overall tax burden. Later, when Chris started working, distributions were adjusted.

A Testamentary Trust Will can also protect assets from creditors during bankruptcy or divorces. If one of your children goes through a tough financial time, their inheritance will be safe from creditors because the assets aren't technically theirs yet.

Testamentary Trust Wills are structured to be tax-efficient, potentially saving your family significant amounts in taxes.

Protection for Family Members

Vulnerable People in Your Will

If you have a child with a disability or someone who might struggle to manage a large sum, a Testamentary Trust can protect them. A trustee can manage these funds in the beneficiary's best interest.

Example: Mary’s son, Alex, struggled with gambling. By placing his inheritance in a Testamentary Trust managed by her brother, Mary made sure Alex wouldn’t squander his inheritance. He received monthly allowances, providing steady support without the risk of misuse.

Making it Work for Blended Families

If you have a blended family, you can structure a trust to make sure your spouse and children are all taken care of as you intended. This can prevent disputes and ensure everyone gets what’s fair.

Example: David had children from a previous marriage and a new partner. He used a Testamentary Trust Will to ensure his kids would inherit a share of his assets, while his partner would have the right to live in their shared home for the rest of her life.

Financial Provision for Your Children

An emotionally challenging part of estate planning is to make plans for the caring for your children when you're no longer around. One part of this challenge is *'guardianship'* – who will provide the care your young children. The other part of this is who will pay for their living costs and future needs, like higher education etc. Where will the money come from, and who will help manage this in your place?

Example: Michael and Emily wanted to ensure their two young children were provided for. They created a Testamentary Trust Will, naming Michael's brother as trustee. If anything happens to them, the children's funds will be managed with their education and future in mind, without giving them unrestricted access.

Role of Enduring Powers of Attorney (EPOA)

Enduring Power of Attorney (Financial)

A Financial EPOA lets someone pay your bills or handle your accounts if you're unable to. This could be due to illness or an accident, and having a trusted person to take over means your affairs stay in good order.

Example: Grace had a stroke that left her unable to handle her finances. Her son, James, held her Financial EPOA, which meant he could pay her bills and manage her investments without needing to go to court.

Enduring Power of Attorney (Medical)

A Medical EPOA allows someone to make medical and lifestyle decisions if you’re out of action and incapacitated. It’s about making sure you’re looked after in the way you would want.

Example: When Robert was diagnosed with dementia, his daughter Lisa, holding his Medical EPOA, ensured he received care aligned with his wishes.

Legal Compliance and Peace of Mind

State-Specific Rules

Every Australian state has different rules, and your estate plan has to comply with the regulations where you live. Ensuring your documents are properly tailored to your state means that your plan will stand up legally, avoiding any issues when it comes to execution.

Ongoing Review

Life changes—marriages, divorces, and new children happen. Keeping your estate plan updated means it's always accurate, giving you peace of mind that your wishes will be honoured. When clients work with Network Family Office, we help manage the estate planning update process, making it easier and more convenient. This includes regular reviews and ensuring any changes are properly documented, so you don't have to worry about the complexities—leaving you more time to focus on what really matters.

Efficient Estate Administration

Executor Guidance

Your executor is responsible for making sure your wishes are carried out. A clear estate plan makes their job much easier, reducing delays and confusion.

Example: Amanda appointed her friend Rachel as executor. Because her plan was clear and well-organised, Rachel could easily administer the estate, ensuring Amanda's children received their inheritance without unnecessary stress.

Minimising Disputes

Disputes often happen when instructions are unclear, or people feel left out. A good estate plan, with clear instructions and a testamentary trust structure, can prevent many of these conflicts. Planning with the end in mind is wise.

Example: Tom and Diane were married and had two children – it was Tom's second marriage. Tom passed away suddenly without having an updated Will or any specific estate planning arrangements in place. He hadn't updated his superannuation to include his children from his second marriage or his new wife, Diane. Without a Binding Death Benefit Nomination (BDBN), the super fund trustee decided to pay the death benefit to Tom's estranged ex-wife, as she was still listed as his beneficiary. This led to a prolonged legal battle between Diane, Tom's children, and his ex-wife, causing immense stress and significant legal expenses for all parties involved.

A simple update to his Will and a BDBN could have ensured Tom's assets went to the right people and avoided the stressful and lengthy dispute.

Real-Life Scenarios and Case Studies

Example 1: Blended Family

John, a father with a blended family made sure children from his first marriage received a specific share while also looking after his second wife. A Testamentary Trust ensured his children and spouse were all taken care of without tension.

Example 2: Bankruptcy Protection

Fairley faced financial troubles due to a series of poor financial decisions and declared bankruptcy. Since her dad's inheritance was held in a Testamentary Trust, it was protected from creditors, giving her security for the future.

Example 3: **Education Funding**

Emily wanted to make sure that her daughter, Chloe, who was still in school, could pursue her education without financial worries. By setting up a Testamentary Trust Will, Emily ensured that Chloe's inheritance would be used for her schooling, with her uncle acting as trustee until Chloe was mature enough to manage the funds herself.

Example 4: Divorce Protection

After Peter passed away, his Will directed that his assets be placed in a Testamentary Trust for his son, who was on the verge of a divorce. By keeping the inheritance within the trust, Peter ensured that his son's ex-spouse would have no claim over those assets during the divorce proceedings.

Example 5: **Income Support**

George wanted to support his elderly mother while also ensuring his young children were looked after. He structured a Testamentary Trust that provided a monthly income to his mother during her lifetime, with the rest set aside for his children’s future needs. This gave his mother security and guaranteed his kids’ future.

Example 6: Business Risk

Sophia’s son, Michael, was starting a business. She was concerned that if the business failed, creditors might target his inheritance. By placing creating a Testamentary Trust Will, Sophia protected Michael's inheritance from any potential claims made by business creditors if he failed, ensuring he had a financial safety net regardless of the outcome of his business venture.

Getting Started with Estate Planning

Steps to Create an Estate Planning

Estate planning involves identifying what you have, choosing who you want to benefit, deciding on executors and trustees, and getting these decisions formalised in documents. It's a step-by-step approach to securing the future of your loved ones.

Keeping Things Simple for You

You don't need to feel intimidated—when clients work with Network Family Office, we will guide you step-by-step through the process of creating legally binding estate planning documents, making it easy to get started. We actively arrange for the collection of all the information needed to complete your estate planning with a qualified estate planning lawyer. This way, our clients can rest assured that the process is handled efficiently and professionally, with minimal hassle for them. We make sure nothing is missed and that all documents are completed thoroughly.

Conclusion

Creating an estate plan is one of the most important steps you can take to protect your loved ones and ensure that your wishes are carried out after you're gone. It's about more than just finances; it's about leaving behind a sense of security and care for those who matter most to you.

Through a combination of tools like Testamentary Trust Wills, Enduring Powers of Attorney, and thoughtful superannuation planning, you have the power to make sure your family is provided for, reduce stress during difficult times, and avoid common pitfalls that can create tension or confusion. The stories shared in this book have illustrated just how powerful a well-constructed estate plan can be, from keeping inheritances safe from creditors to supporting vulnerable loved ones during challenging times.

Remember, estate planning isn't just for the wealthy—it's for anyone who cares about their family's future and wants to leave a legacy of love rather than a legal mess. By taking action now, you can provide your family with clarity and peace of mind, no matter what the future holds.

The time to act is now. Reach out, get started, and take charge of your estate planning today. Your loved ones deserve the security and comfort that only a well-prepared plan can provide.

Visit: https://www.networkfamilyoffice.com.au/
to begin your journey or check out the Frequently Asked Questions below for more insights.

Frequently Asked Questions

1. **What is a Testamentary Trust and why should I consider one?**

A Testamentary Trust is a trust created as part of your Will, which takes effect after you pass away. It helps protect assets, provides tax benefits, and ensures your beneficiaries receive their inheritance in a managed way. It’s especially useful if you have young children, vulnerable dependents, or complex family dynamics.

2. **How do Testamentary Trusts help with taxes?**

Testamentary Trusts can distribute income to beneficiaries who are in lower tax brackets, which can significantly reduce the overall tax burden. This income-splitting benefit means that instead of one beneficiary paying a high tax rate, income is allocated in a way that takes advantage of lower tax rates where possible.

3. **What are the roles of Executors and Trustees, and how do they differ?**

Executors are responsible for ensuring that your wishes are carried out after you pass away. They administer your estate, paying off debts and distributing assets. Trustees, on the other hand, manage the Testamentary Trust, ensuring assets are looked after and distributed to beneficiaries according to your wishes. Executors' roles typically end once assets are distributed, whereas Trustees may continue to manage assets for many years.

4. **How does Network Family Office help with estate planning updates?**

At Network Family Office, we make keeping your estate plan updated easy. Life changes—marriages, divorces, new children—often require updates to your documents. We assist with collecting all necessary information and arranging for regular reviews as part of your overall planning, so your Will & Enduring Powers of Attorney always stay current and compliant, giving you peace of mind.

5. **Why do I need Enduring Powers of Attorney?**

Enduring Powers of Attorney (EPOA) are crucial to ensure that if you become incapacitated, trusted individuals can make financial or medical decisions for you. Without a EPOA, your loved ones may need to apply to the court for permission, which can be a lengthy and stressful process.

6. **Can a Testamentary Trust Will help protect assets in a blended family situation?**

Yes, Testamentary Trust Wills are highly useful for blended families. They allow you to specify exactly how assets are distributed, ensuring both your current partner and children from previous relationships are fairly provided for. This prevents disputes and ensures that everyone's interests are looked after.

7. **How does the estate administration process work?**

When someone passes away, their executor steps in to manage their estate. This includes identifying your assets and collating your overall asset information, paying any outstanding debts, and distributing remaining assets according to the Will. Having a clear estate plan helps ensure this process is straightforward and reduces the risk of disputes.

8. **What are the benefits of having regular reviews for my estate plan?**

Regular reviews ensure that your estate plan always reflects your current situation and wishes. Changes in your family, financial status, or even the law can impact your estate plan. Network Family Office can assist clients with regular reviews to keep everything up to date, reducing the risk of outdated provisions causing issues for your loved ones.

9. **What happens if I don't have an estate plan?**

If you don't have an estate plan, your assets will be distributed according to state laws, which remove your control and may not align with your wishes. This can lead to delays, additional costs, family stress and conflicts. Estate planning gives you control and ensures your loved ones are provided for in the way you choose.

10. **How does Network Family Office simplify the estate planning process?**

We take the stress out of estate planning by managing the process from start to finish. We collect all the required information, liaise with the qualified estate planning lawyer on your behalf and who will prepare your Wills and EPOA's. Our goal is to make sure the process is convenient and easy for you, while ensuring your wishes are clearly outlined and protected.