



Getting your affairs in order

Slide 1 Introduction to Downsizing

Slide 2 Welcome

Thank you for coming today. As a retired English/Computing Studies teacher I have become concerned by how the online world has complicated our lives and our legacy.

Please Note:

I am not a lawyer

This has become a very technical area of law with lots of uncertainty.

The only advice I can give you is "talk to a lawyer" – an accredited specialist in Elder Law.

Ring the Law Society who can give you three names of firms that should be able to help you.

Slide 3 The aim of today's session is to:

- 1. Raise your awareness** of how the online world has complicated our lives and legacy.
- 2. Get you thinking** about how you have arranged your affairs.
- 3. Encourage you to assess** how easily it will be for someone to take over your affairs if and when it is necessary.

I am not yet completely organised but am on the way.

Slide 4 You must have a Will.

Do not do it yourself. It may be that you think it is quite straightforward but remember the saying that the law is an ass.

If you are prepared to pay a plumber, electrician, surgeon, then be prepared to pay a solicitor who is experienced in drawing up a will.

Use a solicitor!

Slide 5 In your Will

1. **You must have a will to clearly identify your assets. Some things may be obvious such as a house or car but others may not.**

Your assets may include:

- house
- car - **avoid being too specific i.e. my car not the Dart or Valiant in case you change cars. You could say “any car that I own”.**
- boat
- shares
- investment property
- shares
- furniture
- superannuation
- jewellery Sometimes it is an idea to give the jewellery now so you can enjoy seeing them enjoy it
- equipment
- technology

Note:

Your solicitor can advise you as to how you identify your assets, whether it is specifically in the Will or as a document that accompanies the Will.

2. **You must have a Will** so you can select the relatives, friends and others (such as charitable organisations) who will inherit your assets when you die.
 - **Your Will must clearly indicate** the family, friends and others and what they are to inherit from your assets. You will save your family and loved ones a great deal of administrative work, anxiety and pain if you have

left a will that identifies clearly the people to inherit, rather than making them go through the process of establishing themselves as eligible relatives.

E.G. "I leave to my each of my grandchildren that are alive at my death and survive me"

You may wish to state that any currently young people inherit at 18 or up to 25 years of age. 25 years is the upper limit, even if you fear that money management is not their strength.

3. **Your Will must clearly contain** reasons for the exclusion of people who may wish to claim/contest your Will.

Be aware that recent changes in the wording of the law were intended to reduce the likelihood of invalid contests to Wills. However, they have actually made it easier for people to contest Wills.

One example is of a woman whose family lived in another state and had had nothing to do with her for many years. She clearly stated in her Will that she wanted to leave some property to a local council for a sanctuary rather than to her children. The only contact she had had in recent years had been with a granddaughter who visited her and actually stolen from her. After her death, when she was in her nineties, her children contested the Will and were awarded part of her estate.

Another case was a woman whose marriage ended in divorce and settlement many years ago. However when her ex-husband, who had been remarried for decades, died, she made a claim on the estate and received money.

Slide 6 Your Will should be revisited every few years.

Does your executor know that he/she/they are your executors? It is a very stressful role. You owe it to them to make it as easy as possible by organising your affairs.

Slide 7 Not having a Will results in:

If you die without a will, in essence, the Government gets it.

It will cause unnecessary hardship and distress to your family and friends.

Eventually, your assets will be divided among qualifying relatives and dependants after costs and according to a formula set out in government legislation.

There are of course delays as relatives wait for the Public Trustee to identify eligible legatees and administer the estate and deduct costs and fees.

Slide 8 Helpful websites

There are websites with information to help you organised your papers **before visiting the solicitor.**

They include:

[Legal Aid NSW Making a Will](#)

[State Library NSW Legal Information on Wills](#)

[The Cancer Council Getting your affairs in order](#)

Slide 9 Things for couples to consider:

Are accounts in joint names?

I recently discovered that the credit card linked to our joint 46-year-old bank account is in my husband's name. I have my name on the credit card but it is also apparently my husband's. If he dies, I lose my credit card and all the loyalty points disappear as well. I am currently arranging to have a credit card in my own name. This has involved my having to take in papers regarding my pension and any assets so the bank can decide whether they will grant me a credit card. This is despite our joint bank account into which my salary over decades and now my pension is paid. You must check your own bank status. A friend recounted how someone had to borrow money from the children for the funeral because the bank account was apparently only in the deceased person's name

Check with your bank regarding your joint access to information etc. for

- bank accounts (note that you must have separate logins and must not use your partner's. This can be classed as fraud and if the bank knew this and then someone else illegally accessed your account, the bank could

refuse to make good because they can claim you had already authorised access to the account.)

- credit cards
- electricity/gas/water accounts
- council rates?

Slide 10 Check all your accounts

- Telco - Our mobile phones were in my husband's name. I recently had my name added to the account but I am only a secondary account holder. If anything happens to my husband, the account closes.
- NRMA
- home insurance
- car insurance
- car registration
- superannuation When you die, your superannuation benefit balance and any insurance benefit (known as a death benefit) is usually paid to your dependents or your legal representative. If you don't have any dependents, it is paid to your estate and will be dealt with, according to what is in your will, or by the legal rules for those who die without a will. Different policies have different rules and different time frames for payment to beneficiaries. Check!!!!
- what else?

Slide 11 Power of attorney

- Power of attorney is a document giving another trusted person the ability **to act on your behalf** in financial matters such as:
 - paying bills
 - managing money if for any reason you are unable to manage financial matters yourself.

For example, you may develop mobility issues and so your daughter/son, with a power of attorney, can pay your bills on your behalf.

This is only while you have the ability to make decisions.

Slide 12 Enduring power of attorney

gives a trusted person the **legal authority to make financial and/or legal decisions on your behalf.**

- An enduring power of attorney begins operating from a specified time and continues to operate even if you lose the ability to make decisions for yourself at some time in the future.
- The enduring power of attorney ceases to operate upon your death. The executor/s indicated in your Will then have the authority to dispose of your assets.

Slide 13 Advance Medical Directive/Health Care Directive/Living Will

An advance care directive (ACD), sometimes called a 'living will', is a document that describes one's future preferences for medical treatment in anticipation of a time when one is unable to express those preferences because of illness or injury.

Apparently, in New South Wales, Living Wills are not legally binding.

There is no absolute legal requirement that your doctors or your relatives must carry out your wishes.

However, a court may consider your ACD in making its decision if it comes to that.

It is therefore important that any Living Will is relatively current, clearly expressed, and appear to concur with what you have said while you were still of sound mind

It would hopefully be persuasive unless there are very strong arguments to the contrary.

Slide 14 Enduring Guardian

This is an alternative for documenting decisions about your health.

You can make specific written instructions for your future health care in the event of any situation in which you can no longer speak for yourself.

You can outline your wishes about life-sustaining medical treatment if you are terminally ill or permanently unconscious.

You can state your wishes about your choice to prolong your life or to withhold or withdraw treatment. Including a DNR, do not resuscitate order.

You can also choose to request relief from pain even if doing so hastens death. You can also leave instructions about organ donations.

The enduring guardian must be able to produce the paperwork at the hospital!

The NSW Government Trustee and Guardian website explains the role of Enduring Guardians. I am not recommending that you use the service of the Public Trustee but there is information about Enduring Guardians.

An enduring guardian cannot make decisions about your money or assets.

The appointment of your Enduring Guardian takes effect only if you lose the capacity to make your own major personal decisions.

Have you told someone about your preference for burial or cremation, church service, private ceremony or knees up at the pub?

Slide 15 Key documents

To make it easier for your executor, you should gather up key documents. You must have the paperwork in order. You must be able to find it as needed and so must your family/ executors etc.

Your key documents should include:

- Birth certificate
- Marriage certificate
- Divorce papers
- Will
- Power of attorney
- Enduring power of attorney
- bank accounts/credit cards
- Advance Healthcare Directive
- Enduring guardianship
- house deeds
- home and contents insurance

Slide 16 key documents

- deeds/ insurance policies for other real estate
- superannuation papers
- investment documents
- Medicare card
- medical insurance details
- Pensioner Concession Card
- pre-paid funeral fund (my husband discovered his father's funeral plan five years after death. Have you stated your wishes re funeral, service etc?)
- personal insurance policies

Once your paperwork is in order, it will help your executor and family if you list the legal documents you have and where they are kept. A friend of mine has his documents in a box clearly labelled with the name of their solicitor also prominently on the label.

Slide 17 The New Industrial Revolution

We are now living through a revolution but very different to the original Industrial Revolution

The new Industrial Revolution is driven by technology that is connecting everyone and everything, everywhere and all the time.

Slide 18 The online world

The online world has added a complication. You may have documented your assets but you now also have digital assets.

- digital devices
- digitally stored content
- online stored content
- online accounts.

One way of describing Digital Assets is:

Digital assets include files stored on my digital devices, including but not limited to, desktops, laptops, tablets, peripherals, storage devices, mobile telephones, smartphones, and any similar digital device which currently exists or may exist as technology develops or such comparable items as technology develops. The term "digital assets" also includes but is not limited to emails received, email accounts, digital music, digital photographs, digital videos, software licenses, social network

accounts, file sharing accounts, financial accounts, domain registrations, DNS service accounts, web hosting accounts, tax preparation service accounts, online stores, affiliate programs, other online accounts and similar digital items which currently exist or may exist as technology develops or such comparable items as technology develops, regardless of the ownership of the physical device upon which the digital item is stored.

Slide 19 Devices

(Ask the audience)

What devices do you have?

- desktop computer
- laptop
- tablet/iPad
- phone
- camera

Slide 20 Digitally stored content

(Ask the audience)

Digitally stored content

What do you have stored on your device/s?

- documents
- photos
- music
- videos

Slide 21 Decisions about your content

(Ask the audience)

Decisions for digitally stored content

What do you want to happen to your:

- documents
- photos
- music
- videos?

Do you want them to be:

- deleted
- transferred to someone else?

Slide 22 Decisions about your devices

(Ask the audience)

What do you want to happen to your device/s? Are they to be:

- recycled (after all content has been deleted)
- given to a specific person? (before or after some/all content has been deleted)

Slide 23 How do you use the Internet?

I am working on the assumption that you use the Internet. People use the Internet for a myriad of reasons.

(Ask the audience) How do you use the Internet?

- banking
- buying
- selling
- paying bills
- watching movies
- reading online publications
- watching television

Slide 24 How do you use the Internet?

- email
- file storage (images, documents, videos, iCloud, Drive, Dropbox, YouTube)
- communicating (Skype, FaceTime)
- file sharing (Google Docs, DropBox, iCloud)
- reading books
- booking accommodation

Slide 25 How do you use the Internet?

- social media (Facebook, Twitter Instagram)
- making friends (online dating)
- researching information (Google, Bing)
- listening to podcasts (Richard Fidler, Desert island Disks)
- personal website
- playing games? (scrabble)

Slide 26 Online accounts

Because of your use of the Internet, you may have some online accounts.

You may use the Internet to:

- receive your gas/electricity/ water, phone bills via email
- buy items through EBay,
- sell through Gumtree,
- buy through PayPal
- communicate via Skype/FaceTime
- check on grandchildren via Facebook
- buy books through Amazon/Bookdepository

Slide 27 Passwords

For your accounts, you will have a User ID, which can often be your email address because that is a unique identifier. You will also have a password!

Passwords are everyone's bugbear.

Do you know your passwords?

It is not a good idea to save them in the browsers, Firefox, Safari, Internet Explorer or Edge. If you have saved them, you do need to have it recorded somewhere as well, not on the screen as a post it note.

People complain that they have too many passwords and they are hard to remember or else they use the same one for everything. Not a good idea!

Some suggestions for passwords include using a phrase or word that you can remember and use symbols and numbers.

E.g., Sydney Harbour Bridge. You would use \$ for the S. @ for the a ! 0 for the o
\$ydneyH@rb0urBr1dge

e.g. Acc0mod@t10n

Mary has a little lamb its fleece was white as snow.

Take the first letter of each word and again use numbers symbols and dollar signs instead of all letters.

Mh@ll1fww@\$

How do you store your passwords?

Slide 28 Record of passwords

Where do you store a record of your passwords?

- A note book
- Alphabetic book
- Table in a word processing document
- Table in a spreadsheet

Slide 29 Security for passwords

For security reasons, if you have prepared your passwords in a table or spreadsheet. You should not store them on your computer.

- Use external storage
- Use a thumb drive or external hard drive

Slide 30 Password Manager Software

Some people use a Password Manager.

- It is a software program which saves and remembers all your passwords so you do not have to.
- It will also store your passwords and personal information in an encrypted file, which protects the confidential data from attackers with physical access to your desktop or mobile device.

You just have to create one very strong Master Password which gives you access to the encrypted file

That means all you have to do is remember one password for the password manager, and then it will remember all your other passwords, bank and credit card information and other forms of data in the encrypted file.

Some examples of free password managers are:

- Last Pass
- Norton's Identity Safe

Slide 31 Who knows?

Who knows how to access your digitally stored content and your online accounts?

Your partner

Children

Executor?

Slide 32 Digital Executor

For your digital assets, you need a digital executor. It can be the same person as the person you have nominated as executor. It may however have to be someone who is comfortable with technology.

Does she/he know how to access your digital assets?

- Where is the black book?
- Where is the thumb drive?
- What is the password for Password Manager?
- Where is the password for Password Manager recorded?

Slide 33 Management of accounts and memberships

Paper records are disappearing

Increasingly accounts and memberships are managed online. I was alerted to this when a woman said that a family member aged thirty died without a Will. He did everything online. One year later, they still did not know with whom he banked.

You may have organised automatic direct debit or email notification when payments are due. Monthly payments for SMH, phone etc.

Is someone aware of what may need to be paid, transferred, continued or cancelled?

Slide 34 Managing accounts Unroll.me

You may have accounts about which you have forgotten Unroll.me is a software tool that helps you unsubscribe from unwanted email subscriptions, discover new ones and organise them all in one place.

Slide 35 What do you want done with your email/accounts?

Email accounts

It is important to share important information with someone you trust and let them know what you want done when you are gone.

Closing email accounts varies depending on the provider. Be aware that in the fine print you agree not to divulge your password to anyone else.

There are of course issues with cancelling email accounts because of documents and information your family may need to access.

For example a Gmail account is needed for access to Drive, Photos, Docs, YouTube

Your Microsoft account allows you access to OneDrive and Skype

Slide 36 closing accounts and email accounts

One website that gives some clues as to how to close accounts and email accounts is called EverPlans. Although it is a business, it does provide some helpful guidelines.

Everplans *What happens to my email accounts when I die*

<https://www.everplans.com/articles/what-happens-to-my-email-accounts-when-i-die>

Everplans *How to close online accounts when someone dies*

<https://www.everplans.com/articles/how-to-close-online-accounts-and-services-when-someone-dies>

Slide 37 To sum up:

In the 21st Century, organising your affairs includes a digital component and appointing a digital executor.

Trustee Powers

My executor shall have the power to access, handle, distribute and dispose of my digital assets.

You must provide information about your digital assets:

- all your devices
- digitally stored date photos, music, documents, videos
- data stored in the cloud in iCloud, IPhotos, Drive, Google Photos
- online accounts
- access to relevant passwords and secret questions

You must provide directions as to what is to be done with it all.

Slide 38 Finally

Once you have organised all of this and the appropriate person knows how to access the relevant information.

You can go forth and continue to enjoy life!

Resources

Andersons Solicitors *Digital assets in your Will*

<https://www.andersons.com.au/lawtalk/2015/may/digital-assets-in-your-will/>

Bartier Perry Lawyers *Estate planning for digital assets*

<https://www.bartier.com.au/insights/estate-planning-for-digital-assets-still-only-prudent-planning>

Cancer Council *Getting your affairs in order*

https://www.cancercouncil.com.au/wp-content/uploads/2015/08/Getting-your-affairs-in-order_NSW.pdf

Cancer Council *Will instruction Sheet*

https://www.cancercouncil.com.au/wp-content/uploads/2014/09/14567_CAN4550_Will_instruction_Sheet_Update_LR-v2.pdf

Choice magazine *Healthy ageing*

<https://www.choice.com.au/health-and-body/healthy-ageing/ageing-and-retirement/articles/advance-care-directives>

NSW Government Justice *Enduring guardianship in NSW*

http://www.publicguardian.justice.nsw.gov.au/Documents/finalweb_version.pdf

Everplans *What happens to my email accounts when I die*

<https://www.everplans.com/articles/what-happens-to-my-email-accounts-when-i-die>

Everplans *How to close online accounts when someone dies*

<https://www.everplans.com/articles/how-to-close-online-accounts-and-services-when-someone-dies>

Legal Aid NSW *Making a Will*

<http://www.legalaid.nsw.gov.au/get-legal-help/factsheets-and-resources/speaking-for-myself/making-a-will>

MediaSuper *Who gets your super when you die?*

<https://www.mediasuper.com.au/retirement/who-gets-your-super-when-you-die>

NSW Government *Planning Ahead Tools Advance care directives, wills, power of attorney and enduring guardianship.*

<http://planningaheadtools.com.au/>

NSW Health Department *Advance care planning*

<http://www.health.nsw.gov.au/patients/acp/Pages/advance-care-planning.aspx>

SNHG Lawyers *Prudent Planning in the Digital Age*

<https://www.shglawyers.com.au/news/legal-news/article/?id=prudent-estate-planning-in-the-digital-age>

State Library NSW *Legal Information on Wills*

<http://legalanswers.sl.nsw.gov.au/rest-assured-legal-guide-wills-estates-and-funerals/if-there-no-will-intestacy>

Unroll.me *software to help unsubscribe from accounts/publications*

<https://unroll.me>