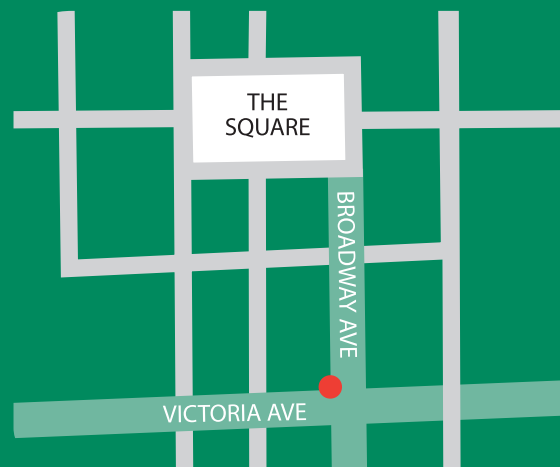


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Alison Green
LAWYER

ARE YOUR LEGAL RECORDS
UP TO DATE?



Have you considered what would happen to you and your loved ones if you died without a Will or lacked the mental capacity to sign documents?

ABOUT WILLS

No one wants to think about his/her own death but it is essential that your loved ones are provided for.

What is a Will? A Will is a legal document and should be professionally prepared containing your instructions after your death to ensure certainty of your intentions.

Who needs a Will? Any person over eighteen should consider having a Will.

What is a valid Will? A valid Will is a Will accepted by the Court and put into effect by the Court granting Probate.

What should a Will include?

- Appoint Executors
- Appoint Testamentary Guardians
- Identify specific gifts and valuables
- Name beneficiaries of residue
- Funeral preferences

What happens if you die without a Will? Your property will be distributed according to the terms of the Administration Act 1969, which may not be in accordance with your wishes, causing hardship to your loved ones.

When should a Will be reviewed? Ideally a Will should be reviewed every three to five years to ensure continued certainty of your intentions or earlier if there are major changes in your circumstances eg:

- The start or end of a relationship
- The arrival of children or grandchildren
- The purchase or sale of major assets

It is important to know that if you have signed your Will before marriage, this will no longer be valid after your marriage and therefore it is vital that you make a new Will.

ABOUT POWERS OF ATTORNEY

If you lose the capacity to handle your own affairs, you will need someone to handle them on your behalf but you need to arrange this ahead of time.

What is an Ordinary Power of Attorney? These relate to property only and may be used to appoint a trusted Attorney to sign documents for you in your absence but terminate during your lifetime if you lack mental capacity. An ordinary Power of Attorney is best used for temporary purposes, such as being away from home.

What is an Enduring Power of Attorney? There are two types of Enduring Power of Attorney - one relates to property and the other relates to personal care and welfare. These may be used to appoint a trusted Attorney to make decisions for you and/or sign documents for you during your lifetime if you lack mental capacity whether through sickness, accident or old age.

Who needs a Power of Attorney? Any person, over eighteen, should consider having a Power of Attorney.

What is a valid Enduring Power of Attorney? A valid Enduring Power of Attorney is one that has been professionally prepared and witnessed by an independent Solicitor or Registered Legal Executive.

What should an Enduring Power of Attorney include?

- Appoint an Attorney
- Specify the extent of the powers of the Attorney

What happens if you do not have an Enduring Power of Attorney? If you do not have an Enduring Power of Attorney and you become mentally incapable, a relative, social worker or medical practitioner can apply to a Family Court for orders appointing people to act as a manager of your property and a personal welfare guardian for you. This process is expensive and the person appointed may not be your choice, causing hardship to your loved ones.

ABOUT TRUSTS

A Family Trust is a legal way to protect your assets and to hold them for the future.

What is a Trust? In its simplest form, a "Trust" is established when a person agrees to hold property for another. With a "Family Trust", there is always a deed because the person who used to own the property, the Settlor, the Trustee and the Beneficiary all need to know the terms of the Trust.

What is a valid Trust? It is important for a Trust to be managed properly with good record keeping. A Trust which is neglected is vulnerable to be upset by creditors or claimants, just when protection of the Trust assets is needed most.

Who needs a Trust?

- A person whose occupation or business puts them at increased risk of claims from creditors
- A person wishing to better control inter-generational asset transfers
- A person desiring to retain assets for other family members when rest home care or other welfare is required
- A person seeking protection from relationship property or family protection claims
- A person needing help with management of their affairs through age or ill health.
- A person seeking to spread income amongst family members to reduce tax liability

What happens if you do not have an effective Family Trust? Your assets are vulnerable to claims from third parties eg creditors and former partners.