

Legal Affairs Plan

This plan is intended to help guide your legal affairs in the event of death, ill-health, and accident and issues in employment. It provides background information, checklists and contact points for further information.

1. In the event of death

1.1 Will

A will is a written legal document that sets out your wishes for the distribution of your assets after your death. If you die without a will, your estate will be divided according to a specific formula that may not reflect your wishes and which may cause undue hardship, cost and delay for your family. A will can also set out your wishes for the care of your children in the event of your death.

A will must be in writing, signed by you and witnessed by two people who must be present when you sign your will and who also must sign the will as witnesses in your presence. A person receiving a gift in your will must not be a witness to the will.

A will is an important document and should be kept safe and secure. You should review it regularly, particularly when your circumstances change.

Will checklist

- Do you have a will?
- Do you know where your original will is located?
- Is your will in writing?
- Is your will witnessed by two people (both of whom do not benefit under the will)?
- Have you reviewed your will to ensure that all relevant beneficiaries are listed, particularly after a significant event, such as marriage, divorce, birth of a child or entering into a de facto relationship?
- Does your will set out your wishes for the care of your children or persons under your care who are under 18 years of age?

CONTACTS

While it is possible to make your own will it is a good idea to consult with a solicitor.

- For a private lawyer (see www.qls.com.au);
- For a Community Legal Centre (see <http://communitylegalqld.org.au>); or
- For the Public Trustee (see www.pt.qld.gov.au/enduring-power-of-attorney or call 1300 360 044).

2. In the event of ill-health

2.1 Enduring Power of Attorney

An Enduring Power of Attorney is a legal document you can prepare to give someone else the power to make personal or financial decisions on your behalf if you are unable to do so because, for example, you become incapacitated or seriously ill.

An Enduring Power of Attorney only comes into effect when you become unable to make your own decisions and ends when you die.

If you are **incapacitated** you are not capable of:

- (a) understanding the nature and effect of decisions you make;
- (b) freely and voluntarily making decisions; and
- (c) communicating decisions in some way.

Enduring Power of Attorney checklist

- Do you have an Enduring Power of Attorney?
- Do you know where it is located?
- Has your attorney agreed to the appointment by signing the acceptance section of the Enduring Power of Attorney?
- Have you reviewed your Enduring Power of Attorney in the last 3 years and revoked any appointments if appropriate?

An Enduring Power of Attorney is different from a General Power of Attorney which allows another person to make financial decisions on your behalf only for a specified period (for example, while you are out of the country) and only while you still have capacity to make your own decisions.

CONTACTS

It is a good idea to consult with a solicitor before making an Enduring Power of Attorney.

- For a private lawyer (see www.qls.com.au);
- For a Community Legal Centre (see <http://communitylegalqld.org.au>); or
- For the Public Trustee (see www.pt.qld.gov.au/enduring-power-of-attorney or call 1300 360 044).

2.2 Advance Health Directives

An Advance Health Directive is a formal way for you to give instructions for your future health care. It comes into effect if you are unable to make your own decisions about your health care because you are incapacitated or seriously ill.

An Advance Health Directive is different from an Enduring Power of Attorney as it deals with only health decisions and has priority over general or specific health matters given to an attorney.

Advance Health Directive checklist

- Do you have an Advance Health Directive?
- Do you know where it is located?
- Is your Advance Health Directive properly witnessed?
- Does your Advance Health Directive include the required certificate signed and dated by a doctor?
- Have you reviewed your Advance Health Directive in the last 3 years and revoked any appointments if appropriate?
- Do you keep a card or note in your wallet so Hospital staff will know you have an Advance Health Directive in the event of an emergency?
- Have you told your next of kin that you have an Advance Health Directive and provided them with a copy?

CONTACTS

- For information please see www.justice.qld.gov.au/justice-services/guardianship/making-health-care-decisions.
- Before you complete an Advance Health Directive it is a good idea to speak to a solicitor.

3. In the event of an accident

3.1 Motor vehicle insurance

There are three types of motor vehicle insurance:

- Compulsory third party personal injury;
- Third party property; and
- Comprehensive.

Compulsory third party (where accident leads to personal injury or death)

Compulsory third party personal insurance is mandatory in Queensland and is included as an additional cost when you pay your registration

- Have you kept your vehicle registration up to date and is your vehicle registered in your name?

It is an offence to drive an unregistered vehicle and if you are involved in an accident, anyone injured will not be covered.

Third party property

This insurance covers property damage to another person's car or their property caused by your vehicle. It does not cover the damage to your vehicle. This is the minimum motor vehicle insurance you should have. It is more affordable than comprehensive insurance and will protect you in a situation where you cause damage to another person's property.

Property comprehensive

Comprehensive insurance covers all the property damage (your vehicle and other vehicles involved in the accident) that occurs as a result of a collision or accident.

- Do you have comprehensive insurance cover for your motor vehicle for damage to vehicles or property?

Important

- Do you have third party property cover or comprehensive cover for your motor vehicle?
- Are the other vehicles that you drive registered and insured?
- Have you have paid all insurance premiums for your motor vehicle policies?
- Have you reviewed your motor vehicle insurance policies in the last 12 months to ensure that your coverage is adequate?
- Have you recently purchased a new car or has the number of people who use your vehicle changed?

3.2 Property insurance

- If you own a home, is it insured?
- Is your home insured for bushfire, storm, cyclone or flood? Depending on where you live, you may need some or all of the above which are often not included in standard insurance policies.
- Have you insured the contents of your home? It does not matter if you do not own your home, you will still need to insure its contents.
- Have you reviewed your home and/or contents insurance policy in the last 12 months to ensure that your coverage is adequate? Have you moved recently or has the value of your contents increased?
- Have you paid all insurance premiums?

3.3 Life and income protection insurance

- Do you have life or income protection insurance?
- Have you reviewed your life or income protection insurance policy in the last 12 months to ensure that your coverage is adequate and lists all beneficiaries?
- Have you paid all insurance premiums?

3.4 Health insurance

- Do you have health insurance?
- Have you reviewed your health insurance policy in the last 12 months to ensure your coverage is adequate?
- Have you paid all insurance premiums?

CONTACTS

There are a number of websites that allow you to compare premiums for insurance products. These include:

- 'iSelect' (www.iselect.com.au);
- 'Choosi' (www.choosi.com.au);
- 'Compare the Market' (www.comparethemarket.com.au); and
- 'Canstar' (www.canstar.com.au).

4. Are you employed? Or are you self-employed?

4.1 Tax checklist

- If you are employed at more than one workplace do you claim the tax free threshold for only one of your employers?
- If you are receiving Centrelink benefits do you report these in your tax return?

- If you have a HECS or Fee-Help debt do you declare this in your tax return?
- If you are or have been in a de facto relationship have you declared your de facto as your spouse in your recent tax return?
- Are you up to date with all your tax returns?
- If you are self-employed or the owner of a business do you pay tax regularly or set aside money regularly to pay your tax?

4.2 Superannuation checklist

- Do you know who your superannuation provider is?
- Have you taken steps to identify all of your superannuation accounts? Unclaimed superannuation can be found using the Australian Tax Office's online tool available at <https://www.ato.gov.au/Calculators-and-tools/SuperSeeker/>.
- Is your employer paying superannuation to your superannuation provider?
- If you are self-employed or the owner of a business, have you made provision to make your own superannuation contributions?
- Do you have a signed binding/non-binding death benefit nomination form and provided it to your superannuation provider in favour of your spouse, children or de facto?
- Have you reviewed your binding/non-binding death benefit nominations in the last 12 months?

4.3 Business

- Have you put arrangements in place for your share of the business if you die or become seriously ill?

4.4 Other financial considerations

- Do you have capacity to pay your debts when they fall due?
- Are you in a de facto relationship? This may impact on tax, superannuation and property matters.

CONTACTS

- For information regarding personal and business tax considerations, see the Australian Taxation Office website (<https://www.ato.gov.au>);
- For small businesses with 19 or fewer employees, the Small Business Superannuation Clearing House helps employers meet their superannuation guarantee obligations. See <https://www.ato.gov.au/Business/Employers-super/In-detail/Small-Business-Superannuation-Clearing-House/Using-the-small-business-superannuation-clearing-house/>; and
- For any complaints regarding superannuation matters, the Superannuation Complaints Tribunal (**SCT**) may assist. See the SCT website (<http://www.sct.gov.au/>).

5. And finally....

- Do you know where all your important documents are kept?
- Does your next of kin know where all your important documents are kept?
- Do you keep insurance policy numbers and other important numbers separate from where the documents are kept in case the documents are lost or destroyed?