



COVID-19: FACT SHEET

REASONS WHY NOW IT IS IMPORTANT TO HAVE YOUR ESTATE PLAN REVIEWED

There is currently a lot of uncertainty surrounding peoples personal, financial and health circumstances as a result of the impact of COVID-19.

If you currently have an estate plan in place, you have already taken some steps to providing a level of certainty in relation to your affairs upon your death or incapacity. However as a result of the changing society it is an important time to review your current estate plan.

If you do not have an estate plan in place, now is even more of an important time to get your affairs in order to provide a level of certainty to your loved ones in the event of your death or incapacity.

WILL

As you may be aware, your Will covers the distribution of your assets upon your death.

5 reasons to review your Will:

1. The risk of illness leading to death is higher than usual meaning it is important that your Will reflects your current wishes should something unforeseen happen.
2. You may have only appointed one or two executors with no alternates. It is important to have alternates appointed incase your first choice is unable to act i.e. in the current climate your first choice may be sick, stuck overseas or have passed away therefore leaving your Will without any executor unless an alternate is appointed.
3. Your asset position may be rapidly changing and existing gifts under your Will may no longer be valid or appropriate.

E.g. you have gifted shares to a specific person which no longer have any significant value.
4. One beneficiary under your Will may now be under more financial hardship than others meaning either that:
 - a. You may wish to gift them an amount of money now which you would like to form part of their inheritance and have taken into account under your Will; or
 - b. You may wish to gift them a greater amount under your Will.
5. You may have left out a person under your Will as you had nominated this person to receive your super. However your super may have significantly decreased in value meaning this person will now receive a significantly lesser sum than the beneficiaries under your Will.

INCAPACITY

Just like you don't know when your time is up you also don't know when an event may occur that causes you to lose mental incapacity either temporarily or permanently.

An Enduring Power of Attorney and Enduring Guardianship are the documents in NSW which cover incapacity. Those two documents deal with who will step in and manage your financial/legal decisions (Power of Attorney) and medical/lifestyle decisions (Enduring Guardianship) if you are incapacitated.

Without those documents, your loved ones would be required to apply to a government tribunal to obtain the power to manage your affairs.

In the current climate, a Power of Attorney is even more useful as it can operate while you still have capacity, meaning you can appoint someone to manage your legal and financial affairs if you are stuck in isolation at home. For example, this would allow a loved one to visit a bank on your behalf and withdraw money from your account.

COMPANIES

A company does not stop operating merely because of a director's death or incapacity.

In the case of a sole director company, the death or incapacity of the director can severely impact on the operations of the business.

To overcome this, you can put in place a Corporate Power of Attorney. This document allows the company to appoint someone to step in and manage the company in the event of the death or incapacity of a director. This is an effective way to ensure your company remains undistributed if a director passes away or is incapacitated.