Your future, Your will

Russell Robertson
Accredited Wills & Estates Specialist

ofrm.com.au/willguide

O'FARRELL ROBERTSON MCMAHON LAWYERS

Level 1, 35 Queen St.,
Bendigo Victoria

PO Box 1111 Bendigo 3552
DX 55021 Bendigo

03 5445 1000
ofrm.com.au

We recognise making your will can be a challenging topic for you to think about. This guide has been written to make that easier and will help you plan and prepare for the creation of your will by O'Farrell Robertson McMahon, Bendigo's leading law firm in the field of wills and estates. It has been written by Bendigo's only Accredited Specialist in Wills and Estates, Russell Robertson.

Contents

What is a will? 1
Why have a Will? 1
Can you just make a will yourself? 1
What about a will kit? 1
Why not a "free" or "cheap will"? 2
So, what is Your Estate? 2
Assets owned by you directly 2
Jointly owned assets 3
Superannuation 3
Family trusts 4
Payment of Debts 4
Choosing Executors and Administrators 5
Appointing executors 5
Executor's Commission 5
Legal Requirements for an effective will 5
What to consider when making a will 6
Beneficiaries 6
Children 8
Equality 8
Disabled Beneficiaries 9
Protecting an inheritance from relationship breakdowns and bankruptcy 9
Relationship breakdowns 9
Bankruptcy 9
Intestacy: What happens if you die without a will? 9
Discretionary Testamentary Trusts 11
Advantages of Discretionary Testamentary trusts 12
Example Tax Advantages of a Discretionary Testamentary trust 13
Disadvantages of a Discretionary Testamentary trust 14
Challenges to wills 15
Our Wills & Estates Lawyers 16
Will preparation checklist 18
What should you bring to your appointment? 18

The information provided in this guide is general in nature and should not be relied upon as legal advice. You should speak to a lawyer at OFRM about your particular circumstances.

What is a will?

In its broadest definition a will is a legal document which sets out how your assets will be divided when you die.

Making a will is an important task. It is more than a list of who gets what. When completed with care and expertise a will:

- contemplates and understands how your assets are owned (p.2)
- wisely chooses who will manage your estate (p.5)
- is produced so it is valid and binding (p.5)
- takes into account your current, past and future family structures (p.7)
- considers and deals with relevant tax implications (p.11)
- is structured so that it is unlikely to be challenged so that your wishes are followed (p.15)
- is based on a comprehensive understanding of the relevant law (p.16)

Why have a Will?

A will allows you to pass your assets onto your beneficiaries with certainty. A will nominates an executor to carry out your wishes. Most importantly, a will undoubtedly makes life easier for those left behind.

If you do not have a will, then the laws of intestacy apply (p.9). means a formula passes your assets onto your nearest next of kin, but occasionally this formula produces odd results. Without a Will, the person with the greatest entitlement to your estate becomes the Administrator (Executor) of your estate, again that may not be the best.

In the process of making a will, you will spend time to think about your wishes. As life changes for you, you can update your wishes with a new will. A will gives you peace of mind and can send a powerful positive message to the named beneficiaries.

Can you just make a will yourself?

You may make a will yourself. It might even prove to be valid (p.5). However, unless you are very knowledgeable about this area of law, there is a considerable risk that you will make an unintentional error or you will have overlooked very important matters that should be considered in your will.

What about a will kit?

Will kits are extremely dangerous. The approach “dumbs down” the task and creates a false impression that wills are simple and easy. Unfortunately, if you make a mistake, usually the error is not identified until after your death and the errors can sometimes prevent your wishes being met and/or

makes the administration of the estate substantially more expensive. Our estimate is that 70%–80% of will kit wills have a significant error or omit important information.

The paltry amount of information provided in the will kit is usually inadequate for most people. Making a will is a serious and important task. Get it right and you can make a positive difference to your family and friends. Get it wrong and the distress of your death becomes far greater than it should be. You are much better to see an experienced lawyer and get advice specific to you.

Why not a “free” or “cheap will”?

To properly devote sufficient time to the preparation of the will involves expert knowledge about the law of wills and general legal knowledge about ownership of property, trusts, companies and business law. A good lawyer will analyse your personal circumstances and your objectives to provide you with sound options that make the administration of your estate clear and provide advantages to your beneficiaries.

The will may only be one page or longer if need be. Each clause in your will has to be appropriate for your situation. A good will may be current for your needs and circumstances for up to 20 years and if you average the cost of the will over that period of time, then it usually becomes very good value for money.

So, what is Your Estate?

Your estate:

- is the total of your assets (things that you own)
- less any liabilities (amounts that you owe to others, like outstanding bills, credit card balances)

In order to prepare your will your lawyer and you need to have a good understanding of what your assets and liabilities are now. The following information is provided so you can start thinking about what would be in your estate.

Assets owned by you directly

Typical assets that people own directly include:

- land and houses
- money in bank accounts
- shares
- motor vehicles
- jewellery
- household contents

Some of these assets will be registered in your name like the title for your house or your car registration. Other assets are more likely to be just held in your possession with no formal registration e.g., furniture, household contents, jewellery.

Jointly owned assets

Where there are multiple owners of an asset like land or shares, the ownership may be **joint or tenants in common**.

If the assets are owned jointly then upon your death the other owner who is still alive automatically becomes the full owner of the asset.

If it is owned as tenants in common then your share does not pass to the other owner, instead it forms part of the assets in your will.

This is a bit technical and one of those matters that where it is best for you to discuss your individual circumstances with us so your will is right for you.

House Ownership

The method of ownership for a house is very important if a *life interest* or *right of occupation* in the principal residence is contemplated. See *Right to Occupy/Life Interest* on page 7 for more information.

Superannuation

Perhaps surprisingly, you do not own your own superannuation benefits. Instead there is an arrangement between you and the trustee of the superannuation fund that the benefits are paid to you during your lifetime.

On your death the superannuation benefits are not necessarily guaranteed to be paid in accordance with your wishes. They will be paid out in the following manner:

- If you have a binding nomination in place it must go to your nominated beneficiary (a binding nomination must be signed in the presence of 2 witnesses and may be indefinite — others may have to be renewed every 3 years)
- If you have only a non-binding nomination then it will be paid at the Trustees discretion in the following way

- To your spouse (which includes domestic partners)
- To your children
- To anyone in an interdependent relationship with you
- To your estate

What does this mean when you are making your will?

- it is important to know how much super you have and how much you are likely to have in the future
- it is important to know how your super fund treats any nominations
- it is necessary to renew binding nominations every 3 years (unless you have a non-lapsing binding nomination in place)

These are matters that OFRM can help you with by discussion your options to provide appropriate advice.

Family trusts

Assets held by a family trust belong to the trustee and do not form part of the assets of the beneficiaries. If you have a family trust or you are a beneficiary it is important to consider the trust deed and how it sits with your will. Careful examination of the Trust Deed is essential and you must take into account any loan balances owed by you or the Trust.

Payment of Debts

All debts due by you at the date of your death are debts payable by your estate out of the assets you have at the date of your death.

On the other hand your estate entitled to receive payment of debts owed to you by others. Debts need to be finalised before any distribution occurs for your estate.

Superannuation and Debts

Superannuation payments do not necessarily form part of an estate and there are times that as a result, an estate is bankrupt and the debts (including funeral costs) owed at death cannot be paid from the superannuation benefit.

Choosing Executors and Administrators

Appointing executors

The executor is responsible for administering the deceased estate in accordance with the will and in the best interests of the beneficiaries. The executor in effect steps into the shoes of the deceased person to wind up their financial matters.

An executor is well advised to work in conjunction with lawyers experienced in probate and estate administration, like OFRM to:

- locate the will
- arrange the funeral
- obtain a death certificate
- liaise with the beneficiaries
- apply for probate (Supreme Court confirmation will is valid and who the executors are)
- inform banks, share registries, etc.
- inform Centrelink, ATO and other government bodies
- locate assets and have them valued
- sell any assets
- pay debts, income tax, funeral expenses
- transfer assets
- distribute the balance to beneficiaries

There are tasks that an executor can do without any legal assistance, but sometimes a lawyer can be very handy.

Executor's Commission

Executor's commission is an amount payable by the estate to the executor for their services in administrating your wishes. Many people make a provision for a small amount of executor's commission to be paid if the executor is not receiving anything else in the will.

It is important to be aware that many "cheap" or "free wills" can include significant commission for the Trustee company who make them meaning it is usually far more cost effective to pay for your will when it is made.

Legal Requirements for an effective will

The legal requirements for your will to be valid and therefore effective are:

1. The will must be in writing
2. The will must be signed by you in the presence of two people who are over the age of 18
3. You and the 2 witnesses must sign the will.

As strange as it seems, these 3 simple rules are easy to mess up. The best way to make sure your will is legal and effective is to have it prepared by a lawyer and have them arrange the signing.

What to consider when making a will

You may have already formed some new ideas about what needs to be in your will. This section details many of the most common considerations.

Beneficiaries

Who will you leave what to? This can be done in a variety of ways, including through specific gifts, life interests, or percentages of what is left after specific gifts have been distributed.

Specific gifts

Many people list specific gifts in their will such as leaving jewellery or war medals to an individual. Individual properties or assets or a cash gift can also be specific gifts.

Charities

You are able through your will to provide a gift to a charity of your choice. You can give a gift to a charity of a specified amount, a percentage of your estate or even the gift of your whole estate.

It is important to identify the charities correctly and that you think how to balance the gift to the charity with what you leave to your family and significant others. A skilled and experienced lawyer can provide valuable advice to help you get this right.

> Charities
>
> If everyone gave 10% of their estate to charities, then this would probably result in charitable gifts increasing 200-fold. The remaining 90% that was available for family or friends would still represent a very generous provision for them.

It is also worthwhile considering whether you could make some or all of that gift now rather than through your will so that you can have the benefit of seeing your gift being used.

Right to Occupy/Life Interest

Sometimes when dealing with our home, you may want to enable your partner, housemate, sibling, child or other to be able to reside in the property for a period of time before the property can be sold. While ultimately, you may wish the proceeds of sale to go to another individual, you do not want to leave a person without a roof over their heads. A clause in your will that gives a person a right to occupy for a specific amount of time or for the rest of their life may be appropriate.

A **right to occupy** or **life interest** is a good way to ensure that those who are dependent on you for a roof over their heads are adequately provided for, without gifting them a significant property.

As outlined earlier, when property is owned jointly it will pass automatically to the surviving spouse and the provisions in the will have no effect. If the property is owned as tenants in common in equal shares then you can create the right of occupation or life interest for your share of the property.

A **right to occupy** is a clause which provides a person an ability to reside in your property for a fixed period of time. This could be anywhere from 3 months to 50 or 60 years. It provides that a person can live in the home rent free and pay the outgoings. There are also some circumstances, where people have opted to ask that the estate cover the outgoings of the property, while a person resides there.

If you want person in your home to be able to live in that home until they are no longer able or until they die, you are best to provide them with a **life interest** in the property. A life interest is a mechanism whereby a person is able to reside in a property, paying the outgoings, including the rates and insurance on the property, for the duration of their life and are able, in some circumstances, to use the property as leverage to enable them to obtain a position in a Nursing Home. The obligation of the person with the life interest, is to keep the capital amount of the property's worth in the estate and do their best to ensure that the property is kept in good condition. A life interest is extinguished when a person dies. The person has no power to pass the asset on to another.

Blended Families

A very common structure for a will is to leave everything to the other partner and then, upon the death of that person, everything is left to the children of both partners. Where there is a second relationship and there are children from a first relationship then this approach can be inappropriate and needs careful consideration.

The Residue of Your estate

The residue of your estate is what is remaining after all expenses are paid for (funeral, debts and legal fees) and all specific gifts have been distributed. The residue of your estate may go to one or more specific people or you can direct it to a class of people such as children or grandchildren.

Taxation

Some decisions will have tax consequences and others will not. Knowing the tax effect on provisions in the will is critical. No-one wants to give tax to the government rather than their beneficiaries.

Children

Guardianship

Guardianship clauses in wills are not legally binding. They are an indication of who you would like to have care of your children if you were not able to care for them.

Guardianship for most people is one of the significant considerations when making their will and one of the most agonising. If there is a dispute with the guardianship of your children, the Family Court will make decisions regarding who will have care and responsibility for your children. An indication that you make in your will about guardianship may be something that your family and friends and the Family Court will take into consideration.

You can also make guardianship clauses regarding your pets. There are ways in your will to provide financial benefit for the guardians of your children to assist them in raising your children and also the provision of gifts to assist in the feeding, grooming and vet costs associated with caring for your pets.

Education and Maintenance of Children

Gifts to children are usually placed into a Trust until the child has reached an age when they can make wise decisions about the money without supervision. There are options to allow your executors to distribute some funds to children before they reach this age.

It may be fitting for a minor beneficiary to receive a proportion of the funds earlier to spend on their education, living expenses or other worthwhile purposes whether this be by paying school fees, assisting with the costs of braces, other medical expenses or accommodation costs if they need to relocate for further study.

These are important matters that should be discussed with a lawyer. Common examples of ages placed on an inheritance are 18, 21 and 25 (and occasionally 30 is a better age). The choice of executors is extremely important in this situation.

Equality

While a lot of people want their wills to be as equal and fair as possible, what appears to be equal and fair on the surface may not be so.

It is important to look back at past events such as money loaned to a child. Would this result in one child receiving a further benefit than others? It is also important to look forward.

If there is a significant age gap between children you may have already paid for the vast majority if not all of the elder children's education for example. The younger children will be at a disadvantage

as these funds would need to be taken from their inheritance. It is important to discuss these matters with a lawyer to enable your will to be as equal and fair and accurately reflect your wishes.

Disabled Beneficiaries

If the beneficiary is unable to manage their own entitlement then the creation of a Protective Trust is a common approach. Essentially, a sum of money is left to the executors to hold on trust solely for the benefit of the disabled child during his or her lifetime. Upon the death of the child then the balance, if any, of the fund is then paid to other nominated beneficiaries. The fund never belongs to the disabled beneficiary. The success or otherwise of this provision depends entirely upon the choice of executors, but usually there are family members or close friends who are more than willing and suitable for this task. Centrelink approved Disability Trusts can also be an option.

Protecting an inheritance from relationship breakdowns and bankruptcy

Relationship breakdowns

Understandably many people are keen to ensure that the inheritance passes to their child, rather than their son-in-law or daughter-in-law. Inheritance is part of the pool of assets that is taken into account in family law property settlements. A Discretionary Testamentary Trust (pg. 11) has the effect of *preserving* the source of the inheritance which then makes it much easier for the Family Court to give weight to the source of those funds.

Bankruptcy

If a beneficiary is bankrupt at the date of your death then the gift in the will automatically vests in the trustee in bankruptcy and will be paid to creditors. Only in the event that all creditors have been paid in full, will the balance be paid to the bankrupt beneficiary.

Sometimes when the will is made the bankruptcy of the beneficiary is known. In those circumstances it is best to create a trust so that the funds are held in a discretionary manner during the period of bankruptcy and then only upon the beneficiary being discharged from bankruptcy would the gift pass to that person.

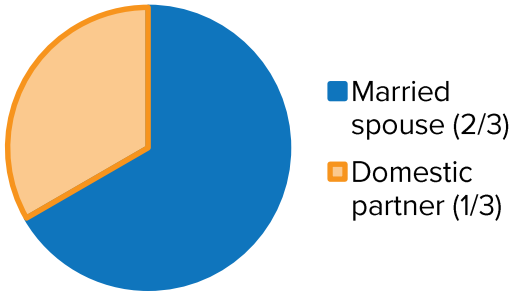
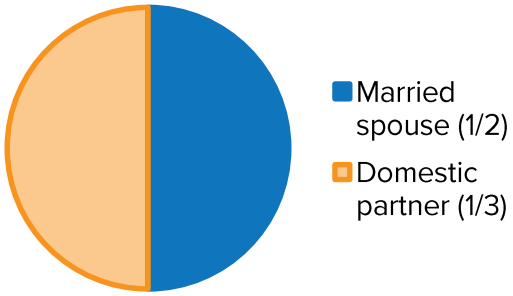
Intestacy: What happens if you die without a will?

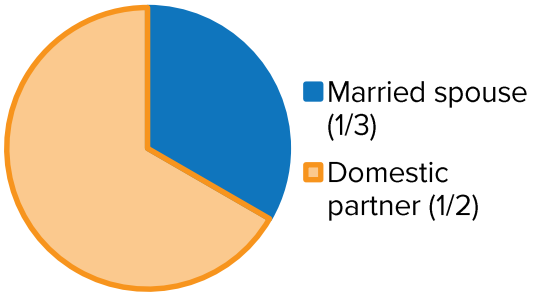
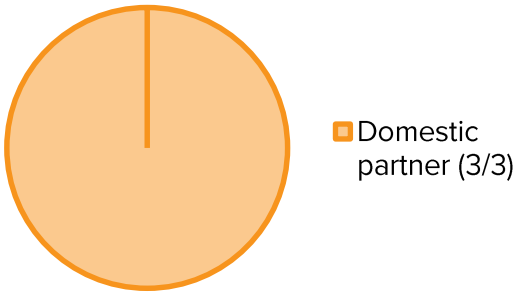
If you die without making a will, the law of intestacy applies.

Ultimately, intestacy rules do not provide a good basis for distribution of your estate. There may be important reasons why you would not want particular people to inherit your assets and in order for

this to occur, a validly executed will is the only way to ensure that in all likelihood your wishes will be met.

- **Single surviving spouse**—everything is left to the spouse. A spouse is someone who is legally married to you or it could be a domestic partner. To qualify as a domestic partner you must be living as a bona fide couple on a permanent basis and that relationship must have existed for at least two years.
- **More than one surviving spouse**—it is possible for a person to be married and then separate and enter into a new relationship, but not bother about a divorce. The legislation provides entitlements for distributions as follows:

Domestic relationship less than 4 years	Domestic relationship of 4–5 years
	

Domestic relationship of 5–6 years	Domestic relationship more than 6 years
	

- **Surviving spouse and children**—the surviving spouse receives all of your personal chattels plus the first $100,000 from your estate. If your estate exceeds $100,000 then the spouse receives one-third of the excess and any children receive the remaining two-thirds of the excess.
- **Leaving children and no spouse**—everything is paid to the children but if they are under the age of 18 years the estate is held on trust for them and the children's guardian becomes the person most likely entitled to administer the estate.
- **No spouse or children**—the estate is paid to the closet next of kin being: parents, siblings, grandparents, aunts and uncles, first cousins, second cousins, third cousins and then any other cousins.

The Government will only be given your estate if no relatives can be found.

Discretionary Testamentary Trusts

Generally, a standard will provides for the assets to pass immediately to the beneficiaries once the debts and expenses of the estate have been completed. If the provision for the beneficiary is relatively modest then this would normally be the appropriate course of action to take.

Where there is a relatively large amount of money that will be given to the beneficiary then the creation of a Discretionary Testamentary trust (DTT) can provide numerous advantages.

The structure of a DTT is summarised as follows:

- The funds are held by the trustee. The trustee may often be the initial executor in the will and would normally be the primary beneficiary of the trust.
- The DTT gives the trustee wide powers of investment during the life of the trust.
- During the term of the trust the income and capital can be distributed as and when the trustee determines.

- The beneficiaries of the trust will be the primary beneficiary and may include their children, grandchildren, spouses of children or even a broader category of beneficiaries.

Advantages of Discretionary Testamentary trusts

- **Taxation**—for some people the taxation benefits of the DTT will be quite significant. Income can be allocated from the trust at the discretion of the trustee so it enables the trustee to choose a distribution which produces the best taxation result in any given year. Further information on taxation of a DTT is found in the sidebar Example Tax Advantages of a Discretionary Testamentary trust on page 13.
- **Capital Gains Tax**—quite often assets such as shares etc., may have an underlining Capital Gains Tax issue and the creation of a DTT may be extremely helpful in distributing a capital gain in a way which minimises tax that would not otherwise be available if the asset were given directly to the primary beneficiary.
- **Protection from Claims by Creditors**—should the primary beneficiary have an unexpected claim made against them through a failed business venture or such, monies held in the trust fund are not normally something which could be attacked.
- **Protection in relationship breakdowns**—if a primary beneficiary has received an inheritance and subsequently has ended a relationship, the Family Court will take into account the assets contained in the discretionary testamentary trust. However, it is easy to identify those assets as being derived from the inheritance which means that more weight may be given to the fact they came from the inheritance.
- **Centrelink Benefits**—until approximately 2000 the creation of a DTT could assist in obtaining a Centrelink benefit. The rules have been changed by Centrelink and the assets and income of the trust fund are now "attributed" to the primary beneficiary and therefore no benefit can be claimed for Centrelink purposes in the creation of the DTT.
- **Flexibility**—while one or more of the above advantages may be apparent to a primary beneficiary, it is possible that no particular advantage is available to a primary beneficiary at this stage because they are single and have no children. However because of the flexible nature of the DTT should any of these other issues arise during the life of the DTT then the primary beneficiary is able to take advantage of the structure that has been created under the will.

Example Tax Advantages of a Discretionary Testamentary trust

There is a special feature of a trust fund created under a will which provides a benefit for children under the age of 18 years that would not normally occur if they received investment income. Normally the tax laws do not discriminate between the sources of income in calculating the tax. While an adult can now earn $18,200 per annum before any tax is payable, the tax free threshold for investment income for children under 18 years was changed more than thirty years ago by the Federal Government. At present those children can earn only $416 per annum on investment income. Thereafter the tax is imposed upon investment income for children at the top marginal tax rate. However the Federal Government clearly and quite deliberately decided that investment income received from a deceased estate for a child should still be taxed as if that child was an adult. While the tax laws have been vigorously reviewed by successive Federal Governments (almost annually) there has been no change in the taxation of estate income for children for several decades and OFRM believes change is unlikely.

Example A–assume that $500,000 has been left to the primary beneficiary directly and without the benefit of a DTT. If the primary beneficiary invests the $500,000 and receives an interest of 5% then the income will be $25,000 per annum. Assuming that the primary beneficiary already receives income and is paying tax at the rate of 32.5 cents in the dollar then an additional $8,125 will be paid to the Australian Taxation Office.

Example B–assume that the $500,000 has been left to the primary beneficiary in a DTT and the primary beneficiary has a spouse who does not earn any other income. If the income of $25,000 is allocated entirely to the spouse then the total tax payable will be $1,292.

Example C–assume that the primary beneficiary is married and has two young children. The spouse works part time. It might be appropriate to allocate the income to the two young children, i.e. $12,500 each. As this amount is below the tax free threshold then no tax would be payable at all.

	Example A	Example B	Example C
Capital	$500,000	$500,000	**$500,000**
Income	$25,000	$25,000	**$25,000**
Tax Paid	**$8,125**	**$1,292**	**NIL**

Of course, should the income earned by the DTT be greater, then the potential tax savings become very significant.

Essentially the income is allocated to the appropriate beneficiary. The primary beneficiary may wish to actually hand over the funds to the appropriate beneficiary. However quite often it is a notional

allocation of the income to that person and the funds are retained by the trust fund and are subsequently recorded as a loan that is repayable to the beneficiary when they wish to call for the funds. However it is common for the loan account balances for children to be used for their education, maintenance and benefit from time to time. For example instead of the primary beneficiary paying the children's education fees from their own resources, they would use the loan account balances. Generally it is not desirable to allow the loan account balance to accumulate unless the primary beneficiary is prepared to part with those funds in due course.

Disadvantages of a Discretionary Testamentary trust

There are very few disadvantages of a discretionary testamentary trust:

- **Setup Cost**—while there is an additional cost in preparing a will which contains a DTT, because of the potential tax savings, it is very easy to see how the advantages to beneficiaries can easily justify the costs.
- **Ongoing costs**—a separate taxation return needs to be made for the trust each financial year and that might cost approximately $150 to $400. From the examples provided above, it is easy to justify the additional costs of a separate taxation return for the trust.
- **Complexity**—there is no doubt that a trust structure for some people will be a complex issue which they would rather not have but with advice from a lawyer and/or accountant the complexity is probably worthwhile.
- **Control**—this is the most important issue and should it not be understood properly then it could create a disadvantage. If the primary beneficiary is not the trustee then the trustee could distribute income in a manner which was not in accordance with the wishes of the primary beneficiary, therefore the choice of trustee is important.
- **Inappropriate Allocation of Income—**should a primary beneficiary decide to allocate income to children, the spouses of their children or to grandchildren then they must understand that this money can be effectively called in by those persons in due course.
- **Value of the estate**—A DTT is usually more advantageous when the likely capital for the beneficiary is significant. If the estate was small then there is unlikely to be any significant advantage from a DTT.

Challenges to wills

It is possible for a person to make a claim against your estate on the basis that you had an obligation to make a provision for the proper maintenance and support of that person but failed to do so. These are known as Testator Family Maintenance Claims (TFM).

The best way to protect against challenges is to:

1. Carefully consider how you want your estate divided and if a beneficiary is receiving a reduced benefit, or nothing at all, you should explain your reasons in the will.
4. Have OFRM's experienced Wills and Estate lawyers advise you on how best to protect your will in your individual circumstances

Most people will find that their will is not to be challenged, and sensible consideration of the relevant issues when making your will is likely to prevent any claims

Our Wills & Estates Lawyers

Our Wills & Estates team, led by Bendigo's only Wills & Estates Accredited Specialist has a thorough understanding of the personal needs and law involved in creating a valid will or managing an estate.

Russell Robertson — Accredited Wills & Estates Specialist, Director

Your will and estate planning is something you really want to make sure you get right, you also want the process of doing that to be with someone you trust. Russell Robertson is passionate about both the legal technicalities of will-making but also about making sure you understand the process and the choices involved. Russell works with you to make a will which will give you and your family peace of mind. "It's human nature to be apprehensive thinking about death, it's my role to expertly guide you in the necessary conversation and decisions to make sure your will and powers of attorney are right for you and your family." As an Accredited Specialist in Wills and Estates, Russell is able to provide over 30 years of experience as a lawyer. That knowledge and experience will ensure that the process is not just easy but comfortable for you. Russell leads our Wills & Estate team and is also able to assist in probate and wills disputes.

03 5445 1020 — r.robertson@ofrm.com.au

Madeleine Debono — Wills & Estates Lawyer

Estates, probate, estate administration. Mention of these legal processes often leads to images of musty law offices and slow old-fashioned manual processes full of legal mumbo jumbo. Working with OFRM Wills & Estate lawyer Madeline Debono is the exact opposite. "Sorting out the estate of a loved one should never be an overwhelming or stressful event. My role is to work with my clients to make sure they both understand the process and that the process occurs smoothly". Madeline's empathy and ability to navigate the legal and practical issues means she is the ideal modern wills & estate lawyer.

03 5445 1063 — m.debono@ofrm.com.au

Emily Chamberlain — Wills & Estates Lawyer

"What a Wills & Estate Lawyer does every day, is exactly why I worked so hard to become a lawyer." Some people think it unusual that a young lawyer would be so passionate about wills and estates, but Emily has found her calling in our Wills & Estates team. The people skills that she honed in working in hospitality through university and her genuine love of connecting with people mean that Emily is able to alleviate the stress for clients when dealing with the estate of loved ones or making their own will. Emily is able to assist you in preparing your will and powers of attorney and in estate administration.

03 5445 1064 — e.chamberlain@ofrm.com.au

Sophie Hogan — Wills & Estates Lawyer

"Being able to provide options, alternatives and advice to clients whether it be in their estate planning or in the administration of estates is a key part of my work as a Wills and Estate lawyer" says OFRM lawyers Sophie Hogan. Sophie assists clients with Wills & Powers of attorney as well as the administration of estates. Sophie finds great satisfaction in using her legal knowledge and skills to alleviate the stress for families dealing with the affairs of a deceased love one.

03 5445 1068 — s.hogan@ofrm.com.au

Also visit What Matters on our website for more information about this and other topics.
Point your browser to ofrm.com.au/what-matters/

Will preparation checklist

When our minds turn to making a will, whether it is for the first time or an update to your existing will, the following checklist may be of assistance to you:

- ☐ Who would like your executors to be?
- ☐ Who do you want to leave things to?
- ☐ Do you want to make an indication of your wishes regarding who will be the guardians of your children and look after your pets?
- ☐ Do you have any particular funeral wishes?
- ☐ Who owns each of your assets: you personally, a family trust or a company?
- ☐ What agreements have you made which need to be identified in the event of your death?
- ☐ Would you like one of your beneficiaries to receive a life interest or a right of occupancy to one of your properties?
- ☐ What provision for education, maintenance and welfare of beneficiaries aged under-18 will you make?
- ☐ Will there be any potential challenges to your will?
- ☐ Will you provide executors commission to your executor?
- ☐ What specific gifts will you make?
- ☐ Will you include a charity in your will?
- ☐ Will you become an organ donor?

What should you bring to your appointment?

- ☐ Previous will
- ☐ List of Assets and how they are owned
- ☐ Your most recent superannuation statements
- ☐ Ideas for the above areas
- ☐ Reading glasses if you require them