

# WILLS

*are like wishes*

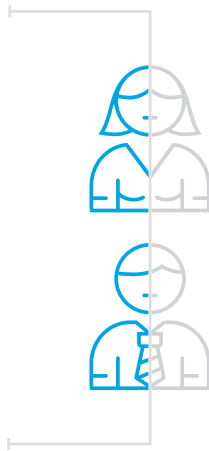


OUR GUIDE TO HELP  
PROTECT **YOURS**

 perpetual guardian

Did you know that more than 50% of New Zealanders don't have a Will?

*Don't be one of them. Take care of things today.*



## What will you need?

BEFORE YOU MEET WITH PERPETUAL GUARDIAN TO DISCUSS YOUR WILL, YOU'LL NEED TO CONSIDER, KNOW ABOUT AND OR BRING...

- A copy of ID (NZ drivers licence or passport)
- A copy of your current Will (if any exist)
- Who you want to be your executors (Full names & addresses)
- Guardians for any children/minors (Full names & addresses)
- Full names and contact details of Beneficiaries
- Funeral wishes
- Any gifts you want to leave to family, friends, and charity
- Details of the assets you own, including certificates of title of property, life insurance policy, KiwiSaver provider, investment portfolios, and overseas assets.

## Why use Perpetual Guardian?

- We are an expert trustee company built on more than 130 years of experience in establishing and managing Trusts and estate planning.
- We provide continuity (unlike an individual, we will not die, become ill or be absent from New Zealand when needed).
- We will be here when you and your family need us.
- Perpetual Guardian staff are professionals with extensive experience in their areas of expertise.
- We are independent, and will act objectively and impartially when dealing with family members.
- We will deal with your affairs promptly and efficiently.
- We offer a full range of associated services, including Trusts, Will preparation, and more.



# What is a Will?

A Will is a document that gives instructions for the distribution of your assets after you die. Your Will identifies who will benefit from your estate (the beneficiaries) and can detail which particular assets you want them to receive. It also allows you to designate guardianship for dependants or make specific personal requests such as funeral arrangements.



## A WILL ALLOWS YOU TO:

- Specify who you want to benefit from your estate (your beneficiaries)
- Who will be responsible for the administration of your estate (your executor and trustee)
- Provide for your family and any other beneficiaries you choose;
- Put in place arrangements for the sale and distribution of your assets;
- Arrange for assets to be held in trust to meet the ongoing needs of those you wish to benefit;
- Appoint a guardian for your children.

## WHO NEEDS A WILL?

Research has shown, time and time again, that Kiwis are more likely to get their Wills set up after a life-changing event. From getting married to having your first child or buying a house, these are the occasions that often prompt us to think about the future. Everyone over the age of 18 should make a Will. It is the safest way to ensure that your assets are distributed according to your wishes. A Will should be updated regularly to take into account any major life changes, such as marriage or separation, having children and grandchildren or the purchase or sale of major assets, like a house. If your Will is not kept up-to-date to account for these changes, it may no longer be valid, or represent your wishes.

*A valid and current Will allows you to express your wishes and ensure your loved ones are provided for after your death.*

If you die without a Will, your property and belongings will be distributed according to the requirements of the Administration Act 1969. In other words, if you do not have a Will, the law decides 'who gets what' out of your estate, regardless of the needs of those close to you, or what you may have wanted.

## HOW DO I CHOOSE AN EXECUTOR AND TRUSTEE?

When making your Will you must nominate someone to act as executor and trustee. The executor has the legal responsibility to ensure that, on your death, the terms of your Will are carried out.

Choosing the right executor is important. The duties of an executor can be complicated, time-consuming and difficult. Duties performed may include Inland Revenue formalities, filing for probate with the High Court, dealing with claims against the estate and the distribution of assets as instructed by the terms of the Will, holding assets in trust for a time (for example if any beneficiary is under age) or selling assets.

Although the appointment of the executor is your decision, it is essential that your executor and trustee can not only be trusted to carry out your wishes, but also have the required experience, time and skills necessary to do so.

Choosing a professional and independent trustee like Perpetual Guardian offers

many distinct advantages for the administration of your estate.

You will have peace of mind knowing:

- Your executor and trustee has over 130 years of estate administration experience and can assist your beneficiaries to understand all the aspects of the estate administration in an empathetic and understanding way;
- All estate matters are confidential and only those people with a right to know about your affairs receive information, ensuring the confidentiality of your assets and beneficiaries;
- Beneficiaries are consulted and communicated with at each stage to keep them up to date with all progress;
- Perpetual Guardian has no vested interest in the estate and will act impartially between interested parties, thus avoiding conflicts which may arise in such situations between grieving family members;
- Your estate will be handled by a team of experts in estate administration – often a complicated and demanding process, requiring a detailed understanding of the law, taxation and accounting;
- Accounting systems are used to provide accurate statements to your beneficiaries;
- We will be there when the time comes to administer your estate, a situation which may not be true of a family lawyer, a family member or friend. Perpetual Guardian is firmly established in New Zealand, with origins dating back over 130 years;
- We have branches all around the country and access to various agencies throughout the world. That means we've got you and your beneficiaries' backs wherever you move, and your overseas assets can be administered efficiently.



## IMPORTANT

Always make sure your Will is up-to-date. An up-to-date, well-drafted Will avoids uncertainty, delay and cost in the administration of your estate.

## IS THERE ANYTHING ELSE I NEED TO CONSIDER?

Although you are free to distribute your estate as you wish, in New Zealand there are three key pieces of legislation which may impose certain obligations on you when you make your Will.

The Property (Relationships) Act 1976 – A spouse or partner has certain rights in relation to your estate. They have the option to choose if they accept what they have been left under a Will, or choose for a division of relationship property. We recommend that you seek independent legal advice when considering relationship property, especially if;

- Your partner will receive less than half of the total relationship property when your estate is distributed.

The Family Protection Act 1955 - Certain family members may have the right to claim against your estate if they feel they have not been adequately provided for under your Will. The family members who have a right to claim are:

- A spouse or partner (including a civil union or de facto partner);
- Children and grandchildren, (including stepchildren in certain circumstances);
- Parents (in certain circumstances).

In determining the extent to which a claim against an estate should be met, the Court considers many factors, such as whether you had a duty to provide for the claimant, the claimants need for some financial provision, and so on.

When you are giving instructions for a Will to be prepared, we suggest that you ask yourself whether you have excluded any possible claimants in your Will, or left them a limited entitlement or an entitlement which is less than your moral obligation to provide for them may be.

## LAW REFORM (TESTAMENTARY PROMISES) ACT 1949 -

A person may claim against your estate if you did not fulfill a promise to leave them something in your Will in return for work or services that they provided you with for which you did not pay.

This Act provides that a person may claim against your estate to enforce that promise.

When you are giving instructions for a Will to be prepared, we suggest you ask yourself:

- Is there anyone who is presently providing you with services, paid or unpaid, who would have the expectation of being included in your Will?
- Have you promised to provide for someone in your Will in exchange for work or services provided?

If you answered yes to either of the above questions, please discuss the particular issue or issues with your Perpetual Guardian adviser who will provide you with specific advice.

If you feel your personal situation may give rise to any other concerns which may impact on the way your Will should be prepared, please raise these issues with your Perpetual Guardian adviser.

## What you need to know

### WHAT ARE THE COSTS?

Fees charged for preparing your Will are very competitive and proportionate to the complexity, and amount of work involved.

### WHAT ELSE CAN I DO?

An up-to-date Will is still the cornerstone of a good estate plan. When completing a Will, Enduring Powers of Attorney should also be put in place to provide for your personal care and welfare if you become incapacitated and the ongoing management of your assets and financial arrangements. To find out more about Enduring Powers of Attorney, ask one of our experts for more information.

### IMPORTANT NOTE

Perpetual Guardian does not accept any liability for loss arising as a consequence of anyone acting in reliance on these notes alone without individual advice. Equally, liability will not be accepted where individual or specific advice was given but all relevant details were not supplied to Perpetual Guardian.

*Remember...  
An up-to-date Will  
is still the cornerstone  
of a good estate plan.*

## OUR CONTACT DETAILS

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