

# Why have a will?

A will is a powerful legal tool that can speak for you after you have died. By making a will, you can **give legal force to your wishes and values** and reduce uncertainty for your loved ones.

Making a will is also a good opportunity to **speak with your loved ones** about your wishes and values and theirs as well. Speaking about death can be difficult, but it is important to **plan ahead** and discuss the future while you still can. This can help your loved ones manage your affairs according to your wishes after you have died.



## When should I make a will?

You can make a will as soon as you turn 18. You should think about making a will if you have

- **assets** (real estate, motor vehicles, cash or money in a bank account)
- **children**
- **strong wishes** about your **funeral**, burial or cremation
- **strong wishes** about where your **assets** will go after you die.

You should also make a will if you have family who you would prefer **not** to inherit your estate.

See [What if I die without a will?](#) to learn who will inherit your estate if you die without a valid will in place.

## What can go in a will?

Provided it meets certain basic criteria (see [What is a will?](#)), a will can be as unique and creative as its maker.

You can set out your wishes about

- who you would like to administer your estate and arrange your funeral (your executor)
- who will receive your assets (real estate, money, property and possessions, including sentimental items and digital assets)
- your funeral, burial or cremation
- your preferred guardians for your children
- who will care for your pets.

## DID YOU KNOW?

Funeral and burial wishes set out in your will are not binding on your executor, but a statement that you do not wish to be cremated is legally binding.

If you have strong views about your funeral, burial, or cremation, you should discuss this with your loved ones and choose an executor who will honour your wishes.

### What cannot go in a will?

**Jointly owned property** (such as a house or bank account) automatically passes to the co-owner upon your death and cannot be left in a will.

**Debts and liabilities** cannot be inherited. They will be paid before the estate is distributed to beneficiaries.

**Superannuation** is not automatically part of your estate and is subject to the rules of your super fund. You may be able to make a binding nomination that your super be paid into your estate.

**Your body** is not considered property and cannot be left as such in a will. You may set out your preferences if you wish to donate your organs or donate your body to science after death.

### What if I do not have a will?

Without a valid will, the **law of intestacy** will decide where your estate will go. This may or may not accord with your wishes because it may

- give your things to people who are not important to you, or
- leave out people who are important to you.

To die **intestate** means to die without a valid will. The law that governs the estates of intestate persons is known as the **law of intestacy**.

See [What if I die without a will?](#) for more information about who will inherit your estate.

The law of intestacy only recognises family relationships and cannot take into account friendships, community groups or charities that may matter to you.

If you die without a will, then, unless you have made other arrangements, you cannot choose who will arrange your funeral, dispose of your body, or administer your estate. Decisions may be made that do not accord with your personal, ethical, spiritual or cultural values.

It may also be more difficult for your loved ones to determine what you would have wanted. Managing your affairs may be more stressful, time-consuming and expensive than it needed to be at a time when your loved ones are grieving.

See [Making a will and getting legal help](#) to learn more about how to make your will and who can help you.