

## Wills and wishes

### Fact sheet

#### Planning ahead

The best time to make important decisions about your wishes at the end of your life is when you are well. Plans made which inform and include the people you trust are likely to be respected.

You are encouraged to plan for the future, because the course of an illness can be unpredictable, and advanced illness leaves you with less energy and drive to think clearly about personal, medical and financial decisions.

This process of advance planning gives you control over your future. It can reassure you that your wishes for your future care and financial affairs are clear, written down, and known to your family, carers, and medical staff.

Making a Will or discussing your wishes for a funeral and other matters is not an admission of defeat. Not having a Will does not mean you will live any longer; it does mean that when you die your family and friends will have less to worry about.

#### What paperwork is involved?

In Tasmania there are three legal processes which support advance planning. These are

- [Enduring Guardianship](#) - for personal and medical decisions;
- [Enduring Power of Attorney](#) - for financial and property decisions; and

- a [Will](#).

Each of these processes requires documents to be completed. It is not necessary to have a lawyer involved unless you want to do so.

#### Enduring Guardianship

Enduring Guardianship is a way to record an [Advance Care Plan](#), a written statement of your wishes regarding your future medical treatment.

In this Plan you appoint a person you trust (Your Enduring Guardian) as a person who can make personal or medical decisions on your behalf if you lose the ability to communicate your wishes or to decide for yourself.

Although family and carers usually fulfil this role, you can appoint the Public Guardian if you wish. Having an Enduring Guardian means you can be certain of who is making decisions on your behalf, and ensures that your wishes are known and followed.

Enduring Guardianship applies to medical and lifestyle decisions but not financial decisions.

For an Enduring Guardianship to be legally valid it must be registered with the Guardianship and Administration Board. This is a free service.

## Enduring Power of Attorney

A Power of Attorney is a person you legally appoint to attend to your financial and property affairs when you are unable to do so yourself. They are not legally able to make lifestyle or medical treatment decisions for you.

### What is the difference between a Power of Attorney and an Enduring Power of Attorney?

A Power of Attorney only applies while you are mentally competent: this means if you are unconscious, or confused, it is not valid.

An Enduring Power of Attorney continues to have effect even if you become mentally incompetent, up until the time of your death. It can be designed to come into effect only when you are unable to make financial and property decisions for yourself.

For an Enduring Power of Attorney to be legally valid it must be registered with the [Recorder of Titles](#). There is a [fee](#) for this service.

Because Enduring Power of Attorney expires on death, and joint accounts are frozen on death, it is a good idea to have an account set up for your surviving partner so that they have continuing access to funds until your Will is processed.

## Will

A Will is a written legal document, signed and witnessed, in which you state how you choose to have your assets and property distributed after you die. It also allows you to nominate the person responsible for making sure your wishes are met - the Executor - and avoids delays and the extra legal processes which occur where there is no Will.

Where there is a Will, there will still be delay in releasing funds.

Make sure that your family or carers know the whereabouts of your Will.

There are will kits readily available which you can use and are accepted by the court but often people prefer to seek the advice of a lawyer.

### Further information and advice

- **The Guardianship Board of Tasmania** has information about, and the forms to complete, Enduring Guardianship on their website <http://www.guardianship.tas.gov.au> and you can contact them on 1300 799 625 (local call) or (03)6233 3085 from interstate.
- **Respecting Patient Choices** Royal Hobart Hospital (03) 6222 8472
- **Office of the Public Trustee** has brief information on their website <http://www.publictrustee.tas.gov.au/> and an information helpline: freecall 1800 068 784
- **Legal Aid Tasmania** has fact sheets on their website <http://www.legalaid.tas.gov.au/> and provides a free legal advice service during business hours where you can speak to a lawyer for the cost of a local call on 1300 366 611
- **Palliative Care Service** social workers, nurses, and doctors are available to assist you if you would like to discuss your wishes.
- Your Lawyer.

### Related Fact Sheets

Advance Care Planning

Considerations after death

#### CONTACT DETAILS

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