

# The Importance of Making a Will

By Michael Paterson, Principal

Michael  
**Paterson**  
& ASSOCIATES

Business & Succession Lawyers

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## THE SAGA OF SHEILA AND BRUCE

### A motor vehicle accident can cause a lot more problems than you might think!

If you die without leaving a Will, you die intestate. One of your relatives has to volunteer to apply for a grant of Letters of Administration so that they can deal with all of your property.

While everyone waits for the grant to be approved nothing can be done with your property and once the grant is approved the administrator must distribute your estate in accordance with a formula set out in the Administration Act, not how they think you would have wanted your property distributed.

A Will also allows you to specify who becomes the guardian of your children should you die before they are 18 years old. Without a Will, the person you least want them to be raised by could raise your children!

### Sheila and Bruce have no Wills

Sheila (30) and Bruce (32) are married and have two children aged 4 and 2. Sheila has a brother and a sister and her mother is still alive. Both of Bruce's parents are still alive and Bruce has another child (6) from a previous marriage for whom he has established an enormous trust fund to pay for this child's maintenance and support. Sheila and Bruce do not have Wills.

Sheila and Bruce had discussed what would happen if they died, in particular they both strongly agreed that Bruce's parents should not be responsible for raising their children if they died before the children turned 18, but they never got around to making their Wills.

Now, what if the unthinkable happens ...

### Scenario 1

Sheila, Bruce and their two children are involved in a car accident and they all die. Because Sheila is younger than Bruce, Bruce is deemed to have died first. All of his property goes to his wife, Sheila. All of Sheila's property then goes to the two children in equal shares. The eldest child's share goes to the youngest child because the youngest child is deemed to have died last. Then the property is split between the grandparents of the youngest child in equal shares. Half will go to Sheila's mum and Bruce's parents will share the other half. This is probably a reasonable result and the kind of result that Sheila and Bruce might have wanted.

### Scenario 2

Bruce is critically injured in the accident and the others all die instantly. Bruce inherits everything. Sadly, Bruce dies a day later. While either of Bruce's parents is entitled to apply for a grant of Letters of Administration to administer Bruce's estate, all of Bruce's property goes to his child from the first marriage, who has already been generously provided for. No one else gets anything!

### Scenario 3

If Sheila survived the accident but died the next day (while the others died instantly) Sheila would inherit the family property for a brief time. When Sheila dies the property is divided between her mum and her brother and sister. Sheila's mum gets \$6000 plus half of the remainder of the estate. Sheila's siblings get a quarter each of the remainder of the estate. Bruce's family gets nothing. Any one of Sheila's mother, brother and sister could apply to get a grant to administer Sheila's estate and they may well fight over it.

### Scenario 4

The youngest child survives the accident, inherits all of the family property but Family and Children's Services determine that the most appropriate guardians for the child are Bruce's parents! Exactly what Sheila and Bruce did not want!

### All of this could have been avoided if Sheila and Bruce had taken time to make their Wills.

So long as you make adequate provision for people entitled to claim against your estate, if you make a valid Will you can be confident that your property will be given to the people you want it to go to, in the way you want it done, by the person you most trust with that task.

### For a chat about Wills & Estate Planning contact one of our solicitors today:

**Chat:** 9443 5383  
**Correspond:** [reception@patersons.com.au](mailto:reception@patersons.com.au)  
**More information:** [www.patersons.com.au](http://www.patersons.com.au)