How a Will Lawyer can Assist Non-English Speaking Clients

Date : November 22, 2018

A recent report prepared by Charles Sturt University and the University of Adelaide found that *"…roughly half of adult Australians have a Will but nearly half of those who do don't feel that their Will is up-to-date or adequately expresses their wishes*."[1]

This is surprising, considering that a Will is probably one of the most important documents that a person will ever sign. It also highlights the importance of talking to a Will Lawyer.

A Will is defined as a legal document, and a statement of a person's wishes that are to be executed when they pass away. The benefit of having a Will is that you get to decide how the assets that you have gained over a lifetime may be distributed. When preparing a Will, it is important that you speak to a Will Lawyer to ensure that it meets all legal requirements and that your wishes are clearly expressed so as to reduce the chance of there being an argument over what your intentions were (who receives what).

A Will Lawyer that specialises in Wills and Estates will be able to assist you in this process. It is important to ensure that the Will is prepared, signed and witnessed properly so as to be legally valid.

The importance of ensuring that your intentions are expressed clearly (to reduce the chance of any argument later on) becomes particularly important when the person seeking to prepare a Will or a will update is unable to speak or read in English or has some difficulties in this regard.

The Supreme Court of New South Wales has, in a recent Judgment, raised concerns relating to a bi-lingual Lawyer interpreting or translating a client's documents. In *Rogic v Samaan* [2018] NSW SC 1464, the Supreme Court of New South Wales stated, at 150, that:

being bi-lingual is not the same thing as being an interpreter (spoken words) or translator (documents). Interpreting and translating are highly skilled occupations, often now undertaken with [the] benefit of specialist tertiary study.

The Court went on to state (at 159) that:

assuming the role of interpreter or translator could put the solicitor in an invidious professional position. This is also why even a solicitor who is also a professional interpreter – if there are any – should not do so in her or his own cases. Difficulties may arise if the accuracy of the interpretation is questioned.

This should, however, not be a barrier to preparing a legally valid Will or a will update.

At Matthews Folbigg, a number of our lawyers speak other languages including Vietnamese,

Cantonese, Mandarin and Greek. Depending on your requirements we are able to source interpreters and translators and can discuss this with you further if the need arises, so as to ensure that your Will is prepared in accordance with your wishes and meets the legislative requirements.

[1] Steen, A., D'Alessandro, S., Graves, C., Perkins, M., Genders, R., Barbera, F.,Shi, H., McGrath and Davis, N., (2017). Estate Planning in Australia. Charles Sturt University

If you would like more information, please contact our office on 9635 7966, to talk to a Will Lawyer and member of our Wills and Estate Planning Team.