Wills & Estate Planning for Blended Families

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Blended families create special problems. Children of past marriages need to be considered and their interests protected, without it impacting on the needs of a current spouse or partner. The changing demographic of families in this modem age means the problems surrounding blended families are now more acute than ever.

Problem Areas

- Will makers forget how assets are held - without intending it, assets can automatically pass to a joint owner or nominated beneficiary, and not form part of the estate of the deceased person, thus frustrating any will provision intended to deal with that asset.
- Providing for a surviving spouse or partner, where the will maker “trusts” that person to look after the children of all relationships, not just that survivor’s own children. It is a dangerous approach, and one almost certain to create conflict between the children of the deceased and the beneficiary.
- Failure to recognise that natural children may only have one chance of making an estate claim, forcing the issue even where there is an excellent relationship between the surviving spouse and those children.
- Failure to see the practical difference between giving “use" of assets to a surviving spouse during their lifetime (and then passing on those assets to the will maker’s natural children), as opposed to an outright gift of those assets (hoping that the surviving spouse will pass assets on to those natural children through that survivor’s will).
- Failure to deal equitably with adult children of an earlier marriage, and younger children of a subsequent relationship, thereby creating dissent between the two groups.

What can be done?

There are solutions:

- Careful planning is essential, with the recognition of the present and future needs of all family- members.
- Planning succession in a way that protects the children of a previous relationship, but without showing “distrust” in a new partner.
- Arranging a will maker’s affairs so that the needs of each beneficiary are satisfied, in the most tax effective way possible.
- Using successful strategies to ensure fairness, such as the gifting of superannuation benefits, funding of life insurance or gifting a life estate or right of occupancy in the matrimonial home.

The object? To ensure a fair division of assets, in a manner that will give security to all parties, and minimise the potential for conflict between loved ones.

We can provide a solution. We have experienced wills and estate planning lawyers who are skilled in the provision of advice on life and death planning for blended families.

More Information

Please contact our property law team at Matthews Folbigg Lawyers on 9635 7966 if you would like advice or assistance.

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