

# Don't risk missing your ultimate deadline!

ESTATE PLANNING SCREENING TOOL



**Single person  
without children**

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Non-testamentary trust will

[lswlawyers.com.au/deadline](https://lswlawyers.com.au/deadline)

# How to use this screening tool

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## Introduction

Welcome to Long Saad Woodbridge Lawyers' Estate Planning Screening Tool. This document has been designed to make the process of preparing your estate planning documents as straightforward and cost-effective as possible.

This is a **fillable PDF document**. To use it:

1. You can **type directly** into the fields, **tick checkboxes**, and **save your progress** as you go.
2. **Alternatively**, you can **print it out** and complete it by hand.

**Important:** To ensure all features work properly and to save your progress, please open this document using a PDF reader application such as Adobe Acrobat Reader (available as a free download) rather than in your web browser. Save the document to your device, complete it and send the saved version of it to us.

## What you need to do:

3. **Read the entire document carefully** from beginning to end before you start filling in any information. This will give you a complete understanding of what's required and help you prepare the information you'll need.
4. **Complete all sections** that apply to your circumstances. As you work through the document, you'll need to:
  - Fill in personal details and information fields
  - Tick relevant checkboxes
  - Answer questions about your preferences
  - Make notes of any queries or special circumstances in **Section 13**
5. **Pay close attention to instructions** throughout the document. Each section contains important guidance to help you provide accurate information and make informed decisions.
6. **Take your time.** Estate planning is an important process. It's better to complete this thoroughly than to rush through it.
7. **Make notes as you go.** If you have questions or if your circumstances don't quite fit what's described, note them in **Section 13** with a cross-reference to the relevant section number.
8. **Complete the payment authority** in **Section 17** before submitting your completed screening tool. You will need to agree your fee with Long Saad Woodbridge before you submit your completed screening tool. See the bottom of the next page.

## Once you have finished:

Simply send your completed screening tool to us using the contact details provided in **Section 18**, and we'll begin preparing your estate planning documents.

If at any stage you're unsure whether this fixed-price service suits your needs, please don't hesitate to **contact us**. There's no cost to discuss your requirements with us before you proceed.

**Please note:** This screening tool is designed for straightforward estate planning needs. If your circumstances are not suitable, we'll let you know and discuss the best way forward.

## 1. What will Long Saad Woodbridge Lawyers fixed price estate planning service do for you and how to use this document?

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This document is called a **screening tool**. If you use Long Saad Woodbridge Lawyers' fixed price estate planning service through this screening tool, they will prepare these documents for you:

1. enduring power of attorney;
2. enduring guardianship appointment;
3. a will without testamentary trusts and without consideration of the 7 risks that relate to the passing of wealth on death.

**Important:** That means that this service will not include the taxation benefits that can arise from the use of testamentary trusts and the service will not consider or deal with the 7 risks that relate to the passing of wealth on death. If you want to do either of these things, you should use our standard screening tool. Please contact us if you have any questions at [step@lswlawyers.com.au](mailto:step@lswlawyers.com.au)

**E** [step@lswlawyers.com.au](mailto:step@lswlawyers.com.au) **T** 02 9279 4888

Please remember that any agreed fixed fee of Long Saad Woodbridge fixed does not include discussion / advice, email questions, telephone and face to face time you may want other than for signing of the documents and does not include personalised letters of advice, required changes to any business structures or any housekeeping,

You now need to read and complete each item requiring completion in this screening tool. Once it is completed, you should send it to your contact at Long Saad Woodbridge so that can review it, prepare your documents and send them to you to review and get ready for signing them.

As you read and complete each item in this document, please make notes at **section 13** of anything that you want to bring to the attention of Long Saad Woodbridge, including if your circumstances or needs fall outside what is set out in the screening tool and they will discuss it with you. There will be no further cost for that without your prior agreement. **Please cross refer your notes to the section from which your question arises.**

If the needs of your circumstances don't fit this fixed price estate planning service, when Long Saad Woodbridge receives your instructions they will contact you to tell you and/or discuss your needs with you. There will be no cost to you for that unless you have agreed on a fee with Long Saad Woodbridge.

Alternatively, if you think that the needs of your circumstances don't fit this service, please contact Long Saad Woodbridge to discuss your needs. Again, there will be no cost to you for that unless you have agreed on a fee with Long Saad Woodbridge.

Before draft documents are sent to you, you will need to pay to Long Saad Woodbridge the agreed fixed fee for doing your work. That is what the authority is for in **section 17**. Please complete it and send it to Long Saad Woodbridge with your completed screening tool.

## 2. What are the 5 stages of an effective estate plan?

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There are normally 5 stages in putting an effective estate plan in place.

### Stage 1

#### **The fact find**

This is where you tell your lawyer about you (and where relevant, your family) so that the lawyer can make sure that when you lose your capacity or die, your assets will be managed / pass in the way you want - this includes telling your lawyer what your assets and liabilities are and who they belong to, being:

- **your personal assets** - those held in your personal name or jointly with another party such as your home, shares, bank accounts, personal life insurances outside superannuation; and
- **your non personal assets** - those that you don't own personally such as in a company, trust or super fund, including life insurances held inside superannuation (and we do not deal with these for you in this service).

### Stage 2

#### **Your power of attorney and guardianship appointment**

Stage 2 is potentially going to be more important to you much earlier than your will.

This is where you provide for what happens if you lose your mental capacity, by setting up an enduring power of attorney and guardianship appointment. If you don't do this, then an application needs to be made to the Government tribunal.

### Stage 3

#### **What happens when you die, including with your assets?**

In this stage, you tell your lawyer what you want in your will including what you want to happen with your assets when you die.

If you don't have a will:

- your assets may not go to the people you want them to go to; and
- if you do have assets, you will be intestate, which means you have died without a will and that can cause further cost and delay in going through the court process to allow the assets to be dealt with.

### Stage 4

#### **Shaping the estate plan and your will** (not included in this service)

In stage 4, you tell your lawyer how to structure what you want to happen when you die.

This stage is all about showing you how testamentary trusts and other protective measures can save tax and protect assets against the risks that need to be considered when passing wealth on death.

### Stage 5

#### **Your housekeeping** (not included in this service)

You need to ensure that all of your assets [personal assets and non personal assets] and the entities that own the non personal assets are structured in a way that will permit your wealth to pass as you intend when you die. In this stage, your lawyer can tell you what needs to be done to make this happen.

Simply having a will doesn't mean that your assets pass as you want and need them to. You still need to do your housekeeping, particularly if you want to maximise the tax saving and asset protection opportunities that can be provided to you with a well structured will.

### 3. What rules should you use in structuring your estate plan?

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The 7 standard rules that we use to help people make decisions about how to structure their effective estate planning are set out here. These are the rules that we use to prepare your estate planning documents unless you tell us otherwise. The **EATSTYR** acronym is how we remember the 7 rules.

**Rule 1** The golden rule is to manage **EXPECTATIONS / EDUCATION**.

When the time is right, you should tell your family what you have done and why, so as to avoid unexpected outcomes, which are a very common cause of disharmony in managing wealth after a death. Tell them and tell them often, as people have a great capacity to forget things.

**Rule 2** There is no correct **ANSWER**. It is about making informed decisions.

**Rule 3** **TRUST MODEL** - unless there are good reasons not to, trust those that will be in control of your wealth while administering your estate if you lose your capacity or when you die.

Also trust those that will be in control to get it right.

**Rule 4** We only hear of the bad cases about the managing and passing of wealth on loss of capacity and death - do you want to box at **SHADOWS**?

Normally it happens very smoothly, so why complicate things on the basis of what is not likely to happen?

**Rule 5** Keep your documents as flexible as possible - estate planning is as much as possible about creating flexibility and **TAX** planning opportunities unless there are reasons not to.

**Rule 6** There are hundreds of **YEARS** of law that relate to the estate planning process and so we do not need to be too prescriptive about how we want it all to work unless your estate plan requires something more specific (e.g. the application of capital and income for the benefit of a minor beneficiary where the beneficiary's parents die prematurely). It normally works quite well without you having to write a book about it.

**Rule 7** Estate planning is not set and forget. Don't try to be too long range.

Regularly **REVIEW** your circumstances and documents. Each year when you do your tax is a good reminder for this incredibly important need. Despite this, our commitment to you is to give you something that normally is quite long-range providing your circumstances don't change.

**You have now completed your introduction to effective estate planning**, our fixed price effective estate planning service and our innovative and unique screening tool. Now it is time to move onto the screening tool and stage 1 of the effective estate planning process - the fact find.

## Stage 1 – the fact find

### 4. What detail does Long Saad Woodbridge need from you?

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Please now give us your following personal details:

**Person 1:** ☐ Male ☐ Female

<b>Full name</b>	
<b>Name normally used for Person 1</b> (so we can personalise your documents)	
<b>DOB</b>	
<b>Occupation</b>	
<b>Phone</b>	
<b>Email</b>	
<b>Home Address</b>	

#### Your children

Your will is being prepared on the basis that you do not have any children.

## 5. What assumptions will apply in the preparation of your estate planning documents?

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By accepting the outline in this screening tool, you are telling Long Saad Woodbridge that the following assumptions are correct. If they are not correct, you must tell us at the time you give us your instructions by noting at **section 13** which of these assumptions do not apply to you.

- No 1** You do not have an existing will that restricts you from making the will you now want to make.
- No 2** You are not about to get married.
- This is very important because unless the will is made in contemplation of marriage, the marriage will revoke the will.
- No 3** If you are married, you are not about to get divorced.
- No 4** If you have a partner, you are not about to separate.
- No 5** You have not had prior marriages / de facto relationships **OR** if you have, court approved property orders or a binding financial agreement are in place that finalise the rights of the parties to that marriage or relationship (**and if they are not in place**, you accept that you continue to be exposed to a claim by your former partner).
- No 6** You do not intend to leave out of your will anyone who has at any time been:
- your partner (except where court approved property orders are already in place)
  - a child of yours
  - a grandchild of yours who has been financially dependent on you
  - someone who has been a member of your household and at some time been financially dependent on you
- OR** if you do, you are not concerned if they challenge your will because inadequate or no provision has been made for them under your will.
- No 7** You do not have any children from any relationship **OR** if you do, you are not concerned if they challenge your will because inadequate or no provision has been made for them under your will.
- No 8** If a beneficiary does not live in Australia, you want that beneficiary to pay any capital gains tax that is payable by your estate because of the gift that you make to the beneficiary and which arises from a deemed disposal immediately before your death because of the gift to a non resident beneficiary.
- No 9** Unless you tell us otherwise, all of your assets that you own and/or control are located in Australia and even if they are not, your will is going to apply to them unless you have already made a will in that other country.

- No 10** So as to provide even greater bankruptcy protection than the optional testamentary trust provides against bankruptcy, if an intended beneficiary (including your partner) is a risk individual for bankruptcy purposes, it is best that the beneficiary is not your only executor **but** that will not be provided for in your will unless you make separate arrangements with us to do so and if you do not, you accept the risk that the bankrupt beneficiary's trustee in bankruptcy may seek to interfere with the outcome, even though based on the current law that applies to death and bankruptcy, the structure of the will means that the trustee in bankruptcy cannot do that.
- No 11** Your executors will not be able to apply to the court to be paid for acting as executor.
- No 12** However, if your executor is an accountant, adviser or lawyer, they will be able to charge you their normal hourly rates for acting as your executor.
- No 13** If you have a company, you accept that after your death, control of the company will pass equally to your intended beneficiaries and their decisions must be unanimous and there is nothing in the constitution of the company that already provides for this.
- No 14** If you have a trust, you accept that after your death, control will pass equally to your intended beneficiaries and their decisions must be unanimous **except** the decision to wind up the trust which can be made by only 1 of them on 12 month's notice to the others of them if the capital is to be distributed equally between them and there is nothing in the trust deed of the trust that stops the trust deed from being changed to allow for this.
- No 15** You do not have a trust of which you are the personal trustee/s (i.e. any trusts you may have, have a company as trustee).
- No 16** You do not have an existing binding or non binding nomination about who is to receive your superannuation benefits when you die **OR if you do, you will separately cancel it just in case it is inconsistent with what is set out in what you tell us in completing the screening tool.** This approach assumes you trust those controlling the superannuation fund trustee and your executor to do the right thing with your superannuation benefits when you die. You will need to see our housekeeping information about this very important need in finalising your approach to your superannuation benefits when you die.
- No 17** If you do not have an existing binding nomination about who is to receive your superannuation benefits when you die or you can cancel an existing one, you are confident that what you want to happen with your superannuation benefits when you die will happen without the need to have a binding nomination (which is easier to manage in a Self Managed Superannuation Fund than it is in a non Self Managed Superannuation Fund, where in the non Self Managed Superannuation Fund you can have absolutely no control over the decision about the payment of your superannuation benefits when you die - **so if you are in a non Self Managed Superannuation Fund, you may need to further consider this**).
- No 18** You don't want to leave any gifts to charity.
- No 19** You are not concerned about any of your intended beneficiaries wasting the gift you intend to make to them under your will.



- No 20** None of your intended beneficiaries have a physical or mental disability of any form that would stop them from properly managing their gift.
- No 21** None of your intended beneficiaries have an existing dependency on drugs, alcohol or gambling or have a mental illness.
- No 22** None of your intended beneficiaries are bankrupt or likely to be declared bankrupt.
- No 23** You have not guaranteed the debts of an intended beneficiary or if you have, you do not want to deal with that in your will.
- No 24** You have not made any loans to an intended beneficiary or any other party that have not been documented and you don't want any further advice about any loan that you may have made, including whether there is any risk that it may not be recoverable because of the 6 year limit under the Statute of Limitations.

**You have now completed stage 1 of the effective estate planning process** – the fact find and it is time to move onto stage 2 of the effective estate planning process – your loss of capacity (power of attorney and guardianship appointment).

## Stage 2 – your loss of capacity (power of attorney & guardianship appointment)

Stage 2 is potentially going to be more important to you much earlier than your will. This is where you provide for what happens if you lose your mental capacity by setting up an enduring power of attorney and a guardianship appointment.

### 6. What will your power of attorney look like?

Your attorney is the person who makes financial decisions for you if you lose your capacity, including about all of your personal assets. So, other than about lifestyle and welfare decisions that are made by your guardian, every decision you can make for yourself, your attorney can make for you.

Most important qualifications for the appointment as your attorney are honesty, trustworthiness and common sense.

Your power of attorney (**the EPofA**) will be prepared as follows:

1. on the assumption that you have legal capacity to make the appointment and you are not being influenced to make the appointment in a particular way;
2. if you appoint more than 1 attorney, they will be able to act separately and will not have to act jointly;
3. if you appoint more than 1 attorney, there will be no mechanism to work out a dispute between them;
4. the EPofA will revoke all prior powers of attorney except any power of attorney:
  - under any security given by you to a lender for finance made available to you and/or any entity that you and/or your partner may control;
  - made by you and/or any entity that you and/or your partner may control in respect of or arising from your business interests;
  - made by you and/or any entity that you and/or your partner may control in respect of or arising from your investment portfolio;
5. the EPofA will be an enduring power of attorney;

That is, it continues if you lose your capacity. This is 1 of the main reasons for appointing an attorney, but because of the way our law is written, it has to be included in the power of attorney document if you want it to operate in this way.

6. the EPofA will include the right of your attorney to delegate their powers;

The reason for this is that your attorney may not be available for some reason and if they can delegate their powers, then there will always be someone who can fill the role. The rationale is that if you trust someone to appoint them as your attorney, you should trust them to pick the right person in their place.

7. the EPofA includes the right of your attorney to provide a benefit in favour of any entity in which you have an interest (direct or indirect) and/or which you control;

8. the EPofA does not allow the attorneys' reasonable living and medical expenses to be paid (other than if your attorney is your partner);
9. the EPofA does not allow benefits to be given to a close relative or friend;
10. the EPofA does not allow benefits to be given to a charity that you might normally benefit;
11. the EPofA does not allow benefits to be given to any other third party;
12. the EPofA operates only on loss of capacity;
13. the EPofA attaches no other conditions to the appointment.

**Before appointing someone** as your attorney or substitute attorney, it is best to ask them if they will do it for you. Normally, the people you want to appoint will accept their appointment and you can always do it after you have completed our innovative and unique screening tool but before you sign the documents.

Before appointing someone as your attorney or substitute attorney, it is best to ask them if they will do it for you. Normally, the people you want to appoint will accept their appointment and you can always do it after you have completed our screening tool but before you sign the documents.

You need to list below your attorney. You only need 1 but can have more if you want. Remember, if you appoint more than 1 attorney, they will be able to act jointly and severally (i.e. together or alone).

<b>Name of attorney 1</b>	
<b>Address</b>	<b>Please do not use commas to punctuate data in the address field</b>
<b>Relationship to you</b>	<input type="checkbox"/> son <input type="checkbox"/> daughter <input type="checkbox"/> parent <input type="checkbox"/> brother <input type="checkbox"/> sister <input type="checkbox"/> uncle <input type="checkbox"/> aunt <input type="checkbox"/> nephew <input type="checkbox"/> niece <input type="checkbox"/> business partner <input type="checkbox"/> cousin <input type="checkbox"/> friend <input type="checkbox"/> lawyer <input type="checkbox"/> accountant <input type="checkbox"/> financial adviser <input type="checkbox"/> other (state the relationship)
<b>Name of attorney 2</b>	
<b>Address</b>	<b>Please do not use commas to punctuate data in the address field</b>
<b>Relationship to you</b>	<input type="checkbox"/> son <input type="checkbox"/> daughter <input type="checkbox"/> parent <input type="checkbox"/> brother <input type="checkbox"/> sister <input type="checkbox"/> uncle <input type="checkbox"/> aunt <input type="checkbox"/> nephew <input type="checkbox"/> niece <input type="checkbox"/> business partner <input type="checkbox"/> cousin <input type="checkbox"/> friend <input type="checkbox"/> lawyer <input type="checkbox"/> accountant <input type="checkbox"/> financial adviser <input type="checkbox"/> other (state the relationship)
<b>Name of attorney 3</b>	
<b>Address</b>	<b>Please do not use commas to punctuate data in the address field</b>
<b>Relationship to you</b>	<input type="checkbox"/> son <input type="checkbox"/> daughter <input type="checkbox"/> parent <input type="checkbox"/> brother <input type="checkbox"/> sister <input type="checkbox"/> uncle <input type="checkbox"/> aunt <input type="checkbox"/> nephew <input type="checkbox"/> niece <input type="checkbox"/> business partner <input type="checkbox"/> cousin <input type="checkbox"/> friend <input type="checkbox"/> lawyer <input type="checkbox"/> accountant <input type="checkbox"/> financial adviser <input type="checkbox"/> other (state the relationship)

You need to list below the people you want to act as your substitute attorney if something happens to the person you firstly appoint as your attorney. You only need 1 but can have more if you want. Remember, if you appoint more than 1 attorney, they will be able to act jointly and severally (i.e. together or alone).

<b>Name of your substitute attorney 1</b>	
<b>Address</b>	<b>Please do not use commas to punctuate data in the address field</b>
<b>Relationship to you</b>	<input type="checkbox"/> son <input type="checkbox"/> daughter <input type="checkbox"/> parent <input type="checkbox"/> brother <input type="checkbox"/> sister <input type="checkbox"/> uncle <input type="checkbox"/> aunt <input type="checkbox"/> nephew <input type="checkbox"/> niece <input type="checkbox"/> business partner <input type="checkbox"/> cousin <input type="checkbox"/> friend <input type="checkbox"/> lawyer <input type="checkbox"/> accountant <input type="checkbox"/> financial adviser <input type="checkbox"/> other (state the relationship)
<b>Name of your substitute attorney 2</b>	
<b>Address</b>	<b>Please do not use commas to punctuate data in the address field</b>
<b>Relationship to you</b>	<input type="checkbox"/> son <input type="checkbox"/> daughter <input type="checkbox"/> parent <input type="checkbox"/> brother <input type="checkbox"/> sister <input type="checkbox"/> uncle <input type="checkbox"/> aunt <input type="checkbox"/> nephew <input type="checkbox"/> niece <input type="checkbox"/> business partner <input type="checkbox"/> cousin <input type="checkbox"/> friend <input type="checkbox"/> lawyer <input type="checkbox"/> accountant <input type="checkbox"/> financial adviser <input type="checkbox"/> other (state the relationship)
<b>Name of your substitute attorney 3</b>	
<b>Address</b>	<b>Please do not use commas to punctuate data in the address field</b>
<b>Relationship to you</b>	<input type="checkbox"/> son <input type="checkbox"/> daughter <input type="checkbox"/> parent <input type="checkbox"/> brother <input type="checkbox"/> sister <input type="checkbox"/> uncle <input type="checkbox"/> aunt <input type="checkbox"/> nephew <input type="checkbox"/> niece <input type="checkbox"/> business partner <input type="checkbox"/> cousin <input type="checkbox"/> friend <input type="checkbox"/> lawyer <input type="checkbox"/> accountant <input type="checkbox"/> financial adviser <input type="checkbox"/> other (state the relationship)

**You have now completed your power of attorney** and it is time to do your guardianship appointment.

## 7. What will your guardianship appointment look like?

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Your guardian is the person who makes lifestyle and welfare decisions about you - what care you will receive, where you will receive it and who will administer it to you if you lose your capacity.

Most important qualifications for the appointment as your guardian are honesty, trustworthiness, common sense and compassion.

Your enduring guardianship appointment (**the EGA**) will be prepared as follows:

1. on the assumption that you have legal capacity to make the appointment and you are not being influenced to make the appointment in a particular way;
2. if you appoint more than 1 guardian, they will be able to act separately and will not have to act jointly;
3. if you appoint more than 1 guardian, there will be no mechanism to work out a dispute between them;
4. the EGA will revoke all prior guardianship appointments;
5. the EGA will state that you want to live in your home as long as possible;
6. the EGA will state that dignity is more important to you than prolonging life with the aid of medicine and/or medical treatment;
7. the EGA will instruct your guardian to withhold care on the advice of your doctor if the care is not going to deliver an outcome;
8. the EGA allows your organs to be used for organ donation but not for medical research;
9. unlike a power of attorney that can start and stop when you say, the law provides that a guardianship appointment only starts on loss of capacity;
10. the EGA attaches no other conditions to the appointment, including about what care you will receive, where you will receive it and who will administer it to you (and so, you will not be leaving any form of advance care directive that binds your guardian, which must be done separately if you want to do that).

**Before appointing someone as your guardian or substitute guardian**, it is best to ask them if they will do it for you. Normally, the people you want to appoint will accept their appointment and you can always do it after you have completed our screening tool but before you sign the documents.

You need to list below the people you want to act as your guardian. You only need 1 but can have more if you want. Remember, if you appoint more than 1 guardian, they will be able to act jointly and severally (i.e. together or alone).

<b>Name of guardian 1</b>	
<b>Address</b>	<b>Please do not use commas to punctuate data in the address field</b>
<b>Relationship to you</b>	<input type="checkbox"/> son <input type="checkbox"/> daughter <input type="checkbox"/> parent <input type="checkbox"/> brother <input type="checkbox"/> sister <input type="checkbox"/> uncle <input type="checkbox"/> aunt <input type="checkbox"/> nephew <input type="checkbox"/> niece <input type="checkbox"/> business partner <input type="checkbox"/> cousin <input type="checkbox"/> friend <input type="checkbox"/> lawyer <input type="checkbox"/> accountant <input type="checkbox"/> financial adviser <input type="checkbox"/> other (state the relationship)
<b>Name of guardian 2</b>	
<b>Address</b>	<b>Please do not use commas to punctuate data in the address field</b>
<b>Relationship to you</b>	<input type="checkbox"/> son <input type="checkbox"/> daughter <input type="checkbox"/> parent <input type="checkbox"/> brother <input type="checkbox"/> sister <input type="checkbox"/> uncle <input type="checkbox"/> aunt <input type="checkbox"/> nephew <input type="checkbox"/> niece <input type="checkbox"/> business partner <input type="checkbox"/> cousin <input type="checkbox"/> friend <input type="checkbox"/> lawyer <input type="checkbox"/> accountant <input type="checkbox"/> financial adviser <input type="checkbox"/> other (state the relationship)
<b>Name of guardian 3</b>	
<b>Address</b>	<b>Please do not use commas to punctuate data in the address field</b>
<b>Relationship to you</b>	<input type="checkbox"/> son <input type="checkbox"/> daughter <input type="checkbox"/> parent <input type="checkbox"/> brother <input type="checkbox"/> sister <input type="checkbox"/> uncle <input type="checkbox"/> aunt <input type="checkbox"/> nephew <input type="checkbox"/> niece <input type="checkbox"/> business partner <input type="checkbox"/> cousin <input type="checkbox"/> friend <input type="checkbox"/> lawyer <input type="checkbox"/> accountant <input type="checkbox"/> financial adviser <input type="checkbox"/> other (state the relationship)

You need to list below the people you want to act as your substitute guardian if something happens to the person you firstly appoint as your guardian. You only need 1 but can have more if you want. Remember, if you appoint more than 1 guardian, they will be able to act jointly and severally (i.e. together or alone).

<b>Name of your substitute guardian 1</b>	
<b>Address</b>	<b>Please do not use commas to punctuate data in the address field</b>
<b>Relationship to you</b>	<input type="checkbox"/> son <input type="checkbox"/> daughter <input type="checkbox"/> parent <input type="checkbox"/> brother <input type="checkbox"/> sister <input type="checkbox"/> uncle <input type="checkbox"/> aunt <input type="checkbox"/> nephew <input type="checkbox"/> niece <input type="checkbox"/> business partner <input type="checkbox"/> cousin <input type="checkbox"/> friend <input type="checkbox"/> lawyer <input type="checkbox"/> accountant <input type="checkbox"/> financial adviser <input type="checkbox"/> other (state the relationship)
<b>Name of your substitute guardian 2</b>	
<b>Address</b>	<b>Please do not use commas to punctuate data in the address field</b>
<b>Relationship to you</b>	<input type="checkbox"/> son <input type="checkbox"/> daughter <input type="checkbox"/> parent <input type="checkbox"/> brother <input type="checkbox"/> sister <input type="checkbox"/> uncle <input type="checkbox"/> aunt <input type="checkbox"/> nephew <input type="checkbox"/> niece <input type="checkbox"/> business partner <input type="checkbox"/> cousin <input type="checkbox"/> friend <input type="checkbox"/> lawyer <input type="checkbox"/> accountant <input type="checkbox"/> financial adviser <input type="checkbox"/> other (state the relationship)
<b>Name of your substitute guardian 3</b>	
<b>Address</b>	<b>Please do not use commas to punctuate data in the address field</b>
<b>Relationship to you</b>	<input type="checkbox"/> son <input type="checkbox"/> daughter <input type="checkbox"/> parent <input type="checkbox"/> brother <input type="checkbox"/> sister <input type="checkbox"/> uncle <input type="checkbox"/> aunt <input type="checkbox"/> nephew <input type="checkbox"/> niece <input type="checkbox"/> business partner <input type="checkbox"/> cousin <input type="checkbox"/> friend <input type="checkbox"/> lawyer <input type="checkbox"/> accountant <input type="checkbox"/> financial adviser <input type="checkbox"/> other (state the relationship)

**You have now completed stage 2 of the effective estate planning process** – your loss of capacity (power of attorney and guardianship appointment) and it is time to move onto stage 3 of the effective estate planning process – what happens when you die, including with your assets (which is all about preparing your will).



## Stage 3 - what happens when you die, including with your assets

### 8. How will your will be set up and who gets your assets when you die?

Your will is going to be set up as set out in the rest of this section and the sections that follow. This screening tool will now progressively work you through those things and the choices you will need to make within them. Remember, if the needs of your circumstances don't fit what is set out and the choices that need to be made, either make a note of that at section 13 and we will talk with you about it or contact Long Saad Woodbridge to discuss your needs. There will be no cost to you for that until you have agreed on a fee with Long Saad Woodbridge.

**IF YOU WANT TO** leave all of your **assets jointly and equally** to each of your surviving siblings (and if they are not alive, to your parents), you will need to tell us the full names of your siblings and your parents.

**So insert your siblings and parent's names below unless you don't want to do that.**

**Write your siblings' full names in age order below**

1	
2	
3	
4	
5	
6	
7	

**Write your parents' full names below**

1	
2	

**IF YOU DON'T WANT TO** leave your assets to your siblings and parents, write below who is going to get your assets jointly and equally, or if it is not jointly and equally, in what other shares, when you die.

1	
2	
3	
4	
5	
6	
7	

If your estate consists of:

- assets you accumulate in your personal name, your will gifts those as you tell us;
- assets you inherit personally from your parents/others, your will gifts those as you tell us;
- an interest in a testamentary trust under your parents'/another person's will, the rules for the ongoing control of that trust after your death are going to be set out in your parents'/the other person's will. It is not until they die, that you need to consider what happens next. At that time, you should raise it with us but at this stage, your will is not going to deal with this issue.

If a beneficiary dies before you, leaving children, their share goes equally to those children at age 30.

If you want to leave specific assets to specific beneficiaries, please tell us what you want at section 13 and we will confirm our costs with you for that change, and:

- You will need to take into account the value and taxation profile of the assets forming those gifts;
- You will need to make sure that loan accounts and/or beneficiary accounts of a company or trust don't complicate your intentions.

**You have now told us who gets your assets when you die** and you now need to tell us about who will be your executor and confirm how some other administrative parts of your will are to be set up so that we can complete stage 3 of the effective estate planning process – what happens when you die, including with your assets.

## 9. Appointment of your executor

---

1. The executor is the person who administers your estate as set out in your will. That is, they collect the assets, pay the debts, apply to the court for a grant of probate and once that is obtained, they can distribute the balance of your estate as set out in your will.
2. Most important qualifications for appointment as an executor are honesty, trustworthiness and common sense.
3. If you do not appoint a substitute executor, your executor's executor will take their place.
4. Sometimes, due to the complexity of the estate or other requirements, people appoint their professional adviser as an executor together with other family members.
5. You should not feel compelled to appoint professional advisers as your executor, and instead of appointing them, you can always include a direction in your will that your executor take their advice. In any event, if common sense prevails, the executors will take the advice of your professional advisers before administering the estate.
6. We will include a provision in your will that your executors get advice from your accountant / financial adviser as at the date of your death and your estate lawyer but despite that being in the will, they are not bound to do it or to take the advice if they do.
7. Remember, if you appoint more than 1 executor, in the will we prepare for you, the decision of the majority will bind the minority.
8. Before nominating an executor, you should first ask them if they are prepared to do it. Normally, the people you want to appoint will accept their appointment.
9. If you want to appoint a Trustee Company, they will normally charge fees for administering the will calculated against the value of the estate and you need to be satisfied that they will always act in the best interests of your beneficiaries and not be conflicted by seeking to invest estate wealth in Trustee Company investments.

You need to list below your executor. You only need 1 but can have more if you want. Remember, if you appoint more than 1 executor, in the will we prepare for you, the decision of the majority will bind the minority.

<b>Name of executor 1</b>	
<b>Address</b>	<b>Please do not use commas to punctuate data in the address field</b>
<b>Relationship to you</b>	<input type="checkbox"/> son <input type="checkbox"/> daughter <input type="checkbox"/> parent <input type="checkbox"/> brother <input type="checkbox"/> sister <input type="checkbox"/> uncle <input type="checkbox"/> aunt <input type="checkbox"/> nephew <input type="checkbox"/> niece <input type="checkbox"/> business partner <input type="checkbox"/> cousin <input type="checkbox"/> friend <input type="checkbox"/> lawyer <input type="checkbox"/> accountant <input type="checkbox"/> financial adviser <input type="checkbox"/> other (state the relationship)
<b>Name of executor 2</b>	
<b>Address</b>	<b>Please do not use commas to punctuate data in the address field</b>
<b>Relationship to you</b>	<input type="checkbox"/> son <input type="checkbox"/> daughter <input type="checkbox"/> parent <input type="checkbox"/> brother <input type="checkbox"/> sister <input type="checkbox"/> uncle <input type="checkbox"/> aunt <input type="checkbox"/> nephew <input type="checkbox"/> niece <input type="checkbox"/> business partner <input type="checkbox"/> cousin <input type="checkbox"/> friend <input type="checkbox"/> lawyer <input type="checkbox"/> accountant <input type="checkbox"/> financial adviser <input type="checkbox"/> other (state the relationship)
<b>Name of executor 3</b>	
<b>Address</b>	<b>Please do not use commas to punctuate data in the address field</b>
<b>Relationship to you</b>	<input type="checkbox"/> son <input type="checkbox"/> daughter <input type="checkbox"/> parent <input type="checkbox"/> brother <input type="checkbox"/> sister <input type="checkbox"/> uncle <input type="checkbox"/> aunt <input type="checkbox"/> nephew <input type="checkbox"/> niece <input type="checkbox"/> business partner <input type="checkbox"/> cousin <input type="checkbox"/> friend <input type="checkbox"/> lawyer <input type="checkbox"/> accountant <input type="checkbox"/> financial adviser <input type="checkbox"/> other (state the relationship)

You need to list below the people you want to act as your substitute executor if something happens to the person or people you firstly appoint as your executor. You only need 1 but can have more if you want. Remember, if you appoint more than 1 executor, in the will we prepare for you, the decision of the majority will bind the minority.

<b>Name of your substitute executor 1</b>	
<b>Address</b>	<b>Please do not use commas to punctuate data in the address field</b>
<b>Relationship to you</b>	<input type="checkbox"/> son <input type="checkbox"/> daughter <input type="checkbox"/> parent <input type="checkbox"/> brother <input type="checkbox"/> sister <input type="checkbox"/> uncle <input type="checkbox"/> aunt <input type="checkbox"/> nephew <input type="checkbox"/> niece <input type="checkbox"/> business partner <input type="checkbox"/> cousin <input type="checkbox"/> friend <input type="checkbox"/> lawyer <input type="checkbox"/> accountant <input type="checkbox"/> financial adviser <input type="checkbox"/> other (state the relationship)
<b>Name of your substitute executor 2</b>	
<b>Address</b>	<b>Please do not use commas to punctuate data in the address field</b>
<b>Relationship to you</b>	<input type="checkbox"/> son <input type="checkbox"/> daughter <input type="checkbox"/> parent <input type="checkbox"/> brother <input type="checkbox"/> sister <input type="checkbox"/> uncle <input type="checkbox"/> aunt <input type="checkbox"/> nephew <input type="checkbox"/> niece <input type="checkbox"/> business partner <input type="checkbox"/> cousin <input type="checkbox"/> friend <input type="checkbox"/> lawyer <input type="checkbox"/> accountant <input type="checkbox"/> financial adviser <input type="checkbox"/> other (state the relationship)
<b>Name of your substitute executor 3</b>	
<b>Address</b>	<b>Please do not use commas to punctuate data in the address field</b>
<b>Relationship to you</b>	<input type="checkbox"/> son <input type="checkbox"/> daughter <input type="checkbox"/> parent <input type="checkbox"/> brother <input type="checkbox"/> sister <input type="checkbox"/> uncle <input type="checkbox"/> aunt <input type="checkbox"/> nephew <input type="checkbox"/> niece <input type="checkbox"/> business partner <input type="checkbox"/> cousin <input type="checkbox"/> friend <input type="checkbox"/> lawyer <input type="checkbox"/> accountant <input type="checkbox"/> financial adviser <input type="checkbox"/> other (state the relationship)

## 10. Executor/trustee powers

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1. The Trustee Act provides what your executor / trustee must do or is permitted to do in administering your estate.
2. Unless you exclude their operation, your executor / trustee will be required to comply with the prudential obligations under Section 14A-14D of the Trustee Act (e.g. to get valuations, consider risk, review annually, diversification etc).
3. If you trust someone enough to act as your executor / trustee, why burden that person with the obligations of Sections 14A-14D of the Trustee Act?
4. In the case of non arms length / family executors / trustees and otherwise assuming that most executors / trustees will seek professional advice about both their obligations as an executor / trustee and the decisions they are making, it seems appropriate to exclude the operation of Sections 14A-14D of the Trustee Act.
5. If you don't exclude the operation of those provisions, your executor / trustee may be liable to your beneficiaries simply for overlooking something when making a decision that causes loss.

Sections 14A-14D of the Trustee Act will not operate under your will **unless you tell us otherwise.**

## 11. Use of capital for a beneficiary

---

When you die, your assets make up the capital of your estate. The comments in the next 3 paragraphs apply to that capital where part of it is held on trust specifically for 1 individual. They do not apply to capital that finds its way into any testamentary trust set up under your will.

If a gift (part of the capital) is to be held for a beneficiary until they reach a nominated age, you don't need to concern yourself with how their **maintenance, education, advancement and benefit** will be provided for, as your executor / trustee may use the gift you make to a beneficiary for those purposes. All you need to be concerned about during your life time is whether or not you are setting aside enough money for that purpose. Of course, that is where life insurance can assist if you don't have enough.

The law provides that **50%** of a beneficiary's share of that **capital** and **100%** of that beneficiary's share of the income from the investment of that capital may be spent on the **maintenance, education, advancement and benefit** of that beneficiary until they take an absolute interest in the gift you make to them.

However, this can be limiting and subject to the adopting by your beneficiaries when you die of a capital protected testamentary trust **unless you tell us otherwise**, to provide greater flexibility in the administration of your estate, your executor / trustee will be permitted to use 100% of the income from and of the capital of your estate for the **maintenance**, education (including travel), **advancement and benefit** of a beneficiary before the beneficiary reaches the nominated age.

**You have now completed stage 3 of the effective estate planning process** – what happens when you die, including with your assets.

## Stage 4 - shaping the estate plan and your will (tax)

### 12. What are the 6 risks and how do you deal with them?

---

The 6 risks to passing wealth on death are:

1. Risk 1 - **SPENDTHRIFT** - what if an intended beneficiary is not good at managing money and you want to protect them against that?

Your will is not going to make any provision for this risk.

2. Risk 2 - **SPECIAL NEED** of a beneficiary - what if an intended beneficiary has a physical and/or intellectual disability that means they are not able to manage the wealth themselves?

Your will is not going to make any provision for this risk.

3. Risk 3 - **SPECIAL NEED** of a beneficiary - what if an intended beneficiary develops a drugs, alcohol, gambling or mental illness problem before they take control of their gift?

Your will is not going to make any provision for this risk.

4. Risk 4 - **BANKRUPTCY** of a beneficiary - what if your intended beneficiary is bankrupt when you die or becomes a bankrupt after you die having inherited assets from you?

Your will is not going to make any provision for this risk.

5. Risk 5 - **DIVORCE** of a beneficiary

**If you are a couple making your wills and 1 of you dies:**

What if a relationship of a beneficiary breaks down?

Will the assets that you leave them be exposed in a claim by their partner?

Your will is not going to make any provision for this risk.

6. Risk 6 - **DEATH** of a beneficiary

What if a beneficiary dies and their partner or children challenges their will as they have not made adequate provision for them?

Will the assets that you intend to leave them be exposed in a claim by their partner or children?

Your will is not going to make any provision for this risk.

## 13. My estate planning questions

Please insert here your estate planning questions that you may have

**Ensure you note below the section number from which your question arises.**

**If your question means we cannot provide our fixed price estate planning service for the fixed fee, there will be no further cost to you unless that cost has been agreed by you.**

	Section #	Comment / Question
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
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14.		
15.		
16.		
17.		
18.		
19.		
20.		

Please now read about the conditions which apply to our fixed price estate planning service. If you ask us to complete the work, you will be agreeing to these conditions.



## 14. Do any conditions apply to Long Saad Woodbridge fixed price service?

---

By sending this completed screening tool to us, you are telling Long Saad Woodbridge that you completely agree with everything set out in this **section**.

You accept that Long Saad Woodbridge is not making any recommendation to you about the way in which you should prepare your estate planning documents.

You have chosen this model for your estate planning because it is cost effective and you don't want to incur extra cost in asking Long Saad Woodbridge to look more closely at your circumstances or at your choices.

You have chosen not to use testamentary trusts in your will as part of your estate planning.

You do not want:

- Long Saad Woodbridge to look behind the facts of your circumstances or to ask questions to ensure that what you have asked them to do is appropriate for your circumstances. Sometimes it is only by asking questions that Long Saad Woodbridge can really identify what your needs might be.
- Long Saad Woodbridge to consider the constitutions / trust deed for any of the entities in which you may have an interest (e.g. any company, trust, partnership, SMSF) to ensure that any unwanted outcomes are protected against.
- Long Saad Woodbridge to review any trust deed that is part of your financial structure and you accept that if you have a trust, your trust deed may have provisions in it about appointors and/or guardians and/or other control aspects that are not consistent with your intentions for when you die (for example, only some of your nominated beneficiaries are left in control when you die).
- a binding death benefit nomination to be put in place for your superannuation benefits.
- Long Saad Woodbridge to follow you up about changing from a joint tenancy to a tenancy in common the ownership of any property that you may own jointly, which is what Long Saad Woodbridge normally recommends. You understand that a tenancy in common creates estate planning flexibility and opportunity, including for taxation purposes.
- Long Saad Woodbridge to follow you up about any other housekeeping item that Long Saad Woodbridge may think that you need to attend to.

You understand that:

- normally the best form of personal life insurance ownership for those life insurances held outside of superannuation, for estate planning flexibility and opportunity, including from a taxation perspective, is for the insurance to be owned by you and that any nominated beneficiary is either you or your estate. In this way, the policy proceeds can find their way into testamentary trusts.
- if your life insurances are not structured to be owned by you and/or that any nominated beneficiary is either you or your estate, probate will normally be required before the policy proceeds can be paid out and that may create cash flow issues for the survivor of you.

Your signed documents will be stored with Long Saad Woodbridge (at no cost to you) unless of course you later want to remove them.

You do not want any assistance in planning for your future personal, financial and wealth creation goals, including your life insurance requirements.

Please now read the next section about what you need to do if you are expecting an inheritance.

## 15. Are you expecting an inheritance?

---

Your estate planning and the documents that we prepare for you do not deal with the assets that may pass to you as an inheritance.

If you are expecting an inheritance and that gift passes to you through a testamentary trust created by the person leaving you the inheritance, you can get asset protection and tax advantages from that.

You can only take advantage of these things if that testamentary trust is set up properly under the will of the person who intends to leave you the inheritance.

While this can be a difficult issue for you to raise with that person, it may be in your best interest to discuss these things with the person who intends to make the gift to you.

Please now read the section which sets out some suggestions we have about the details of your estate planning so that those who are left in control when you die have all of the information they will need to do what needs to be done.

## 16. Long Saad Woodbridge' suggestions to you!

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When you lose your capacity or die, your attorney / executors need to know what assets and liabilities you have and who they will need to deal with in administering your estate. Therefore, we suggest that you leave with your estate planning documents details of:

- any pre arranged funeral plans; and
- your assets and liabilities; and
- any relevant contacts that may assist in the administration of your estate; and
- any instructions that may be helpful in administering your estate.

If this information is not available, your attorney / executor will need to put the pieces of the puzzle together themselves. This is difficult enough at the best of times, not to mention when they are grieving after the death of a family member or friend.

You should ensure your attorney / guardian / executor and nominated beneficiaries are aware of the location of the storage of your power of attorney / guardianship appointment / will.

You should review your power of attorney / guardianship appointment / will at least annually to make sure they are current. A good time is when you do your tax. However, whenever changes occur in your life, don't forget to review your documents to make sure that they still work as you intend.

**Congratulations!!!!!!** You have now completed the screening tool. Please now read over the page.

## 17. Authority and payment of your costs

Before we can commence processing your screening tool, please call us to agree on the fee for your documents. The fee can then be entered in the form below. You can contact any of the following members of our team:

**Matt Smith** - 0404 005 161 | **Will Harris** - 0437 255 123 | **Ben Wagenfeller** - 0499 389 862

This page records your authority of what you want Long Saad Woodbridge to do for you. It is also used to record your payment authority for the work that is to be done.

You want Long Saad Woodbridge to prepare optional testamentary trust wills and powers of attorney and guardianship appointments as set out in this screening tool.

Please complete below to:

- Give Long Saad Woodbridge your authority to start this work.
- Give your accountant / financial adviser authority to supply Long Saad Woodbridge with information that it asks for from them about your estate planning?
- Authorise Long Saad Woodbridge to charge your credit card for their services. **Work will not start until that has been done.** Below is the document preparation fee and any advice time will be separately billed as the work is completed.

If you have any questions, please telephone our **Accounts Department** on **02 9279 4888**.

<b>Amount</b> [Document preparation only]	<b>*See above / \$</b>	
<b>Authority to charge credit card</b>	Card number	
	Card holder's name	
	Card expiry date	
	Card type [Amex not accepted]	<input type="checkbox"/> MasterCard <input type="checkbox"/> Visa
<b>Long Saad Woodbridge use only:</b>		<b>Payment processed</b> <input type="checkbox"/>
<b>Who referred you to us?</b>	Business name	
	Contact	
	Mailing address	
	Phone	
	Email	

## 18. Way forward and signing arrangements once your documents are finalised

If you have completed all the details and questions as you have been reading the screening tool, please read the rest of this page to wrap up what needs to be done before you email the completed screening tool to us.

- Call us (see previous page) to confirm the fee for your document preparation, then complete **section 17**.

Documents will not be issued to you without payment arrangements first being made (under the **section 17** authority or otherwise).

- Email your completed document to **step@lswlawyers.com.au**. On receipt of your instructions, we will telephone or email you to confirm their receipt.

### Please note:

- Long Saad Woodbridge will telephone you if they otherwise need to talk to you about your work.
- You should telephone us if you have any questions.
- If we need to visit you, that can be arranged at a time that suits you.
- Otherwise, Long Saad Woodbridge will then prepare and send draft documents to you. It can take 7 days for documents to be prepared and emailed to you once your instructions to us are finalised. If your work is urgent, please make sure you tell us and we can normally make it work.
- We will email draft documents to you unless you ask for hard copies to be sent in the mail.
- Once the documents are acceptable to you, Long Saad Woodbridge will make signing arrangements with you.
- While wills don't need to be signed before a lawyer, your signing of the power of attorney and guardianship appointment do. So once you are happy with your documents, arrangements will need to be made with you about signing and we can do that once you have approved them.
- Please note that other than for you, we do not have the powers of attorney and guardianship appointments signed by the other appointees until it is absolutely necessary.
- It is not necessary for them to sign before you will have validly appointed them, it is just that they cannot act before they sign, which they can do at any later stage when and if they ever need to act on your behalf.
- The reason that we do this is that we find it a very inefficient step in getting all of the documents signed by all the appointees. It adds unnecessary cost to the process when it is not required for the purpose of ensuring that you have a valid power of attorney and guardianship appointment. The most important person to sign is you. The rest can be done later.

**Thank you** for asking us to assist you with this work and we look forward to completing it for you. If you have any questions, please contact us at **step@lswlawyers.com.au** or call:

**Matt Smith** - 0404 005 161

| **Will Harris** - 0437 255 123

| **Ben Wagenfeller** - 0499 389 862

ISW

LONG SAAD  
WOODBRIDGE  
LAWYERS

# DON'T RISK MISSING YOUR ULTIMATE DEADLINE

For more information visit [lswlawyers.com.au/deadline](http://lswlawyers.com.au/deadline)

## 5 The 5 stages

### Stage 1: Fact find

Detailing your assets, liabilities & relationships.

- Your **family, beneficiaries** & their **relationships**
- **Personal** and **non-personal** assets

### Stage 2: Loss of capacity

Planning for your loss of capacity.

- **Power of attorney**
- **Enduring guardian**

### Stage 3: Beneficiaries

Deciding who gets what and when.

- **Age** and **stage** of inheritance?
- **Spouses** included or **bloodline** only?

### Stage 4: Tax and risk

Deciding how to structure your estate plan.

- Do you want a **testamentary** trust?
- Do any of the **7 risks** apply to you?

### Stage 5: Housekeeping

Making sure your estate plan actually works.

- **Align** entities, documents and asset control with your plan.
- **Revisit your plan** regularly, especially if your life changes.

## Willmaker



## ? Things to consider

### 7 x Rules

E.A.T.S.Y.R

### 7 x Risks

#### 1 - Spendthrift

- **Select** the trustee

#### 2 - Special needs (Disability)

- **Select** the trustee & gift over

#### 3 - Special needs (DAGS)

- **Select** the trustee

#### 4 - Bankruptcy

- Trustee **control**

#### 5 - Betrayal

- Mutual wills
- **OR** independent trustee
- **OR** limited capital rights

#### 6 - Divorce - Family Law

- BFA
- **OR** independent trustee
- **OR** limited capital rights
- **OR** single trust

#### 7 - Death - a contested will

- Control
- **OR** independent trustee
- **OR** limited capital rights