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Five things you need to ask yourself in 2018

If being more organised, or paying more attention to those you love (or a variation on either of those) are on your list of things to 'be better at' in 2018, then a key part of that will be making sure your Will and estate plans are in order.

"The main thing is to ensure your documents are up to date, legally valid, and reflect your current family and financial circumstances," says Stephanie Smith, Estate Planning lawyer at Equity Trustees.

"Wills and estate planning are not something that people associate with the festive season and summer holidays – but they should.

"It's an ideal time to reflect on whether your circumstances have changed during the year, and if they have materially done so then it should be addressed in your Will early in 2018," she said.

Ms Smith said this timely advice especially applies to those people who don't have a Will. "Writing a Will is not something that should ever be postponed – we never know when it will be required.

"It's not just people without a Will. People with a Will need to review it regularly, irrespective of their personal circumstances. If you have children, a superannuation fund, own a house or any other assets, then you need to have a Will. And, given the Parliament's recent decision to vote in favour of marriage equality, people in same-sex relationships who decide to get married need to understand this new status revokes all previous Wills – including ones they may have carefully made.

"The only exception to this rule is when it's specifically stated that the pre-existing Will was made 'in contemplation of the marriage'. Then the Will remains valid."

Ms Smith said when people's personal and financial circumstances change, it's often an emotive time, and considering its likely impact on their Will is not something they consider at the time: "And trying to think about your Will if something awful happens – like serious illness – is very stressful and difficult.

"This is why reflecting on how your life has changed over the past year and what this means in terms of estate planning is a good idea at this time of the year.

"There are many ways our lives change that have an impact on our Will such as a new grandchild, separation or divorce, a death in the family, or a new relationship. They are all events that have the potential for you to reconsider your Will and decide whether it needs to be updated.

"If you want to ensure your Will distributes your assets as you desire – which is most of us – then having it up-to-date, legally correct, practical and accurate is critically important."

Ms Smith said it is important for people to appreciate that writing a Will is not a particularly time-consuming or challenging task.

She also strongly advises against 'DIY' Wills: "It's never quite as simple as it sounds – there are some legal aspects that need to be covered to ensure the Will is legally valid. But you can make the process of having one professionally drafted very efficient if you think through a few basic steps before your consultation with your estate planner or lawyer," she said.

Equity Trustees recommends starting with five key questions:

- 1. Who should benefit (and why)?**
Determine who you want to leave something to – and those you don't want to leave anything to. It's important to remember when compiling this list who you are responsible for, financially or otherwise
- 2. Who to appoint?**
Decide who you want to appoint to specific roles, including executor of the Will, and any powers of attorney, and have a conversation with them. Think about who could take on the role if your preferred option is not able or available when they are needed
- 3. Who gets what?**
List your assets (and liabilities) – especially the important ones - whether they are important because of their financial or emotional value. A list also helps your executor know where and what everything is.
- 4. What's changed in the past 12 months?**
Review any changes that have occurred in the past year, and whether this requires your Will to be changed as well.
- 5. Do I have documents?**
Make sure all your documentation is in order and accessible. This includes bank accounts, mortgage and insurance deeds, birth, marriage and divorce certificates, superannuation, and details of any investments.

Getting specialist advice means your response to these questions can be properly dealt with.

"A specialist will ask the critical next level questions to ensure what you want to have happen, can happen – that your Will meets your objectives and is legally binding," said Ms Smith.

"It's often the case that people who don't get specialist advice end up having their Will challenged and overturned, creating hardship for those people who are left behind. By getting it right in the first place, this can often be avoided."

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