

Legalquotes *News*

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I'M TOO YOUNG TO WORRY ABOUT THAT!

"Old age is like everything else. To make a success of it, you've got to start young."

Theodore Roosevelt (26th US President (1901-09), 1858-1919)

Almost half of the adult population (45%) and more than 60 per cent of parents with children under the age of 18 do not have a Will.^① Even fewer people have made arrangements for their own health, legal and financial affairs if they are not able to look after their affairs themselves. It seems that we do not want to turn our minds to these issues until we are older or perhaps until it is too late.

Ask yourself these questions:

1. Do you want someone you trust to make decisions about your health if you cannot?
2. Do you own or are you buying a home?
3. Are you employed or own a business?
4. Do you own assets (i.e. a bank account)?
5. Do you have a superannuation fund?
6. Do you have children?
7. Do you have a partner/spouse?
8. Do you travel or want to travel?

If you answered yes to any of the questions above then you need to consider having a Power of Attorney and an Enduring Guardianship drawn up.

What are Powers of Attorney and Enduring Guardianships?

To put it simply, a Power of Attorney is a document which allows you to appoint a person or people you know and trust to look after your legal and financial affairs. Your Power of Attorney can ensure your affairs are managed even if you cannot manage them yourself. Similarly, an Enduring Guardianship will allow you to appoint a person or people you know and trust to ensure your own health care is being conducted in accordance with your wishes if you are unable to make decisions for yourself.

But I'm young, fit and healthy, why do I need a Power of Attorney and Enduring Guardianship?

Have you ever thought about who would ensure your bills are paid, you received your entitlements and make decisions about your health care if you:

- became ill or were in an accident and were unable to look after your affairs yourself? or
- decided to travel overseas or interstate?

Surely my partner, spouse or parents could do that?

No, from the time we reach the age of majority (18), we are on our own - legally speaking. Your parents and partner are not able to manage your legal and financial affairs or sign any documentation on your behalf without a Power of Attorney. Although medical



practitioners may, as a courtesy, discuss your health care with your next of kin in certain circumstances, Privacy Legislation prevents them from disclosing information about you without your consent.

Additionally, medical practitioners are not obliged to take instructions about your medical treatment from your next of kin.

What happens if I don't have a Power of Attorney or Enduring Guardian?

If you are unable to look after your own affairs, then an application will need to be made to the Guardianship Tribunal, who will then decide who to appoint as your Financial Manager (similar to a Power of Attorney) and Guardian. This may be someone you know and trust, but it may not. The Guardianship Tribunal may decide it is in your best interests to appoint the NSW Trustee and Guardian (formally the Public Trustee and the Public Guardian).

If you or someone you know, would like assistance with the preparation of a Will, Power of Attorney and Enduring Guardianship, please contact one of our Business and Personal Services Lawyers on 1300 727 813. We would be happy to discuss your particular circumstances with you.

① *NSW Trustee and Guardian* <http://www.goodwillweek.com.au> and <http://www.tag.nsw.gov.au>



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