

irongroup lawyers

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Estate Planning Consulting for Advisers ...

The Adviser role...

We have many Advisers now who have chosen to play a more significant role in their clients' estate planning process. In some ways it is highly appropriate role for the Adviser as it really involves preparing a final financial plan for the client. You may be helping manage their funds now, helping to prepare for their retirement, or helping to steer their business in the right direction by managing their accounts. The question is, what is the best way to pass on those assets to their family when the time comes?

We work with Advisers who wish to play a more active role in this final plan, training them to help the client through the process, providing them with access to our restricted website with its full suite of tools, and providing on-going mentoring by our legal staff. Once accredited you will be equipped to provide us with a comprehensive brief that allows us to prepare the estate planning documents. This not only gives you the opportunity to manage the complete client process but also to generate fees for your part in the planning process.

How does estate planning consulting work for accredited Advisers?

You will ask clients if they have an up to date Will (many won't have one at all). If they would like a new Will prepared, you organise a time to meet, identify their needs and prepare the brief for the lawyer. How do you prepare this brief? In conjunction with the client you complete our comprehensive Client Profile. This collects all of the information we need and identifies any special circumstances they need to address. This document has been designed to provide us with all of the information we need to then prepare their Wills. The following provides an overview of this process.

Step One: Personal and Family details

The clients' full names, addresses, dates of births plus information on their children as well as their siblings.

Step Two: Key Roles

Executor and Alternate Executor Roles

They will need to appoint an executor and an alternate executor, in the event the first one has pre-deceased them. Most people choose their spouse as executor and possibly a sibling or eldest child as the alternate. It is important here to understand though that whoever ends up as executor will assume their role as a trustee if they have their own SMSF. As this may give them majority control, the Willmaker may need to re-consider who is to act in these roles. They may for example, wish to appoint two children as co-alternate executors.

Executor and alternate executors?

Any issues if this person assumes control of the SMSF?

Guardians

If the Willmaker has children under 18 they may want to consider who to appoint as guardians. If there are older children they can assume the role of looking after the younger ones or it could perhaps be a sibling of the Willmaker. This is not a binding nomination as the appointment could be successfully challenged if the guardian is not considered appropriate at the time eg they have a drug or alcohol dependency for example. In most instances though this nomination does provide direction for the family and is something they should discuss

Irongroup Lawyers can help your clients if they need advice on an estate challenge. They may be acting as an executor, or have a query as to their potential rights. Contact us on info@irongroup.com for more information.

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with their person of choice as part of this process. Note that in most cases this person will become the trustee who manages the child's inheritance until they reach the age of the parent's choosing - as long as they have a Will with discretionary testamentary trusts.

Step Three: Personally Owned Assets

You will already have a lot of information here so it's a matter of documenting this in our client profile to help build an idea of what is available to be distributed to beneficiaries.

Step Four: Non-Estate Assets

Does the client have **life insurance**? Is it in or outside of superannuation? If the latter, who has been nominated? Refer to our September 2009 insight for more information on the issues around insurance ownership.

Does the client have a **Family Trust**? If they hold the Appointor role (the control position), does the deed allow that to be handed on via the Will? If not, we can amend the deed if necessary. If the client has considerable trust assets eg a business, it will be important to pass on the Appointor role to an appropriate person as the Willmaker can only leave (non-binding) instructions as to what they would like to have happen - they cannot bequeath any trust assets directly.

Are there any **loans owed to the Willmaker in the trust's balance sheet** eg unpaid distributions? These would need to be called up by the executor which may cause problems. If necessary we can organise to give the executor the power to forgive these loans in the Will.

Does the client have **Superannuation**? Is it in a SMSF? Who will get control? Is it in a Managed Fund? Will the super be received by tax-free recipients? Will other perhaps older children miss out? Will this be a problem? Does this need to be addressed?

Step Five: Distribution Preferences

The important part. Who will receive the Willmakers' assets and how? Some will leave everything to their spouse if alive or to the children, then grandchildren.

Others will split the assets in the first instance between their spouse and say, children from a prior relationship. Life interests or a Right to Occupy can help here, particularly with the home. How these assets are passed on is also important and over 90% of clients choose Wills that enable their beneficiaries to establish discretionary testamentary trusts that provide asset protection, tax benefits, some family law benefits and the ability to nominate an age beyond 18 years at which their children get access to their inheritance.

It is also important to get a general overview of total assets in order to ensure that they have enough to provide for their family. In some instances this calls for life insurance to be put in place.

Special Needs?

Some of your clients may have dependants with physical or mental health problems that mean they cannot be left an inheritance directly. If so, special testamentary trusts can be established with another responsible adult appointed to manage the funds.

Would you like to get involved in your client's estate planning?

We provide the training, tools and templates for you to collect this information and explain possible solutions to the clients to enable them to choose the ones that suit them best.

Where there are special requirements, we will liaise with you to develop the appropriate solutions. Once you have gathered all of the necessary information and identified their particular needs, the client signs off and it is passed on to us to prepare the Wills. Again we will liaise with you where necessary.

In the current climate, extending the services you offer your clients can be an attractive option. You not only up-skill yourself (and/or your staff), but can take control of the client process whilst generating additional fees.

If you would like access to this model so that you can provide an estate planning service for your clients please contact us on info@irongroup.com and we will send you more information.

IRONGROUP LAWYERS TRAINING FOR ADVISERS

1. Accreditation Workshops - becoming an Alliance Partner

If you would like to become an Alliance Partner and be more involved in your client's estate planning or business succession planning you can attend one of these workshops.

2. Lunchtime Seminars for Advisers

We offer lunchtime seminars & full day workshops.

Visit www.irongroup.com for more details.