



## Estate planning and blended families

**Date: Monday August 5, 2024**

Blended families are becoming more common in today's world and take various forms. With this comes the need to consider how your estate planning needs should be addressed, taking into account your specific circumstances. This blog aims to describe some of the unique issues that arise in blended families and what might be considered part of your estate plan.

### Examples of blended families

Whilst there is no exact meaning of the term 'blended family', a common similarity for all blended families is that individuals from previous relationships come together and create a shared household.

Blended families are all constructed differently which means that every blended family will be dealing with differing characteristics and situations. Some examples of blended family scenarios include:

1. One party has children from a previous relationship and then, after separating from their spouse, enters into a new relationship;
2. Both parties have children from their respective previous relationships and subsequently enter their new relationship; or
3. Both parties have children from their respective previous relationships, they separate from their parental partner, they enter the new relationship and they then have children together.

Each of these examples applies to both heterosexual and same-sex relationships.

Another blended family scenario relevant to estate planning considerations, and which is increasingly common, is where parties in the subsequent relationship then have children who are significantly younger than the children of their earlier relationships.

Balancing interests between children who have a large age gap can sometimes be difficult although there are some techniques that can be used to deal with it.

# Common considerations in estate planning with blended families

## Life estates for blended families

One of the most common requests in blended families who are considering their estate plan is to ensure that both the surviving spouse and their children are looked after. In these instances, one way to ensure your surviving spouse is looked after might be by holding title to the property you live in with your spouse as [tenants in common](#) and providing a [life estate to your spouse in your Will](#).

This means that your surviving spouse can enjoy the benefit of your interest in the home during their lifetime, and upon their death, the home would be sold and your interest in the property would then pass to your children.

Depending on your individual situation and what you wish to achieve in your estate plan, the life estate might also allow for the home to be sold and a substitute property purchased to which the same life interest arrangements would apply.

## How can I equally provide for all my children in blended families?

Another common consideration for parents of blended families is how they can provide for their children equally. This is especially so where there are young children of a new relationship and children of a prior relationship.

In these situations, considering whether to have a life insurance policy which can be applied for the benefit of your children of a prior relationship or for the benefit of the children of the new relationship is often a good starting point. However, considering the best way to divide your assets between your spouse and all your children will depend on your individual situation and what you ultimately wish to achieve from your estate plan.

## Other estate planning considerations for blended families

There are a number of things people should consider when looking at the estate planning needs and some of these can have added importance when you're in a blended family.

### Marriage

If you re-marry after divorce, any previous Will is revoked unless an exception applies. If your previous Will made provision for your children, you need to ensure you write a new Will as soon as you marry or in contemplation of your new marriage. This will help to protect the interests of any children of your previous relationship and any children of your new relationship.

If you had a Power of Attorney, it will not be automatically revoked upon marriage. So, it is crucial that you seek advice and assistance to revoke any prior PoA and create a new one.

You can read more about this in our earlier blog, [“Effect of marriage on your Will and other estate planning documents”](#).

## Divorce or separation

Separation does not necessarily alter how your existing Will, Power of Attorney or Appointment of Guardian would operate, but it may lead to a former spouse still being appointed to act in a role you no longer wish them to be involved in.

Divorce, on the other hand, does have an effect on your Will, but this only occurs once the divorce is finalised, which can be much later than the original separation. It also may lead to circumstances that you did not intend.

You can read more in our earlier blog, [“Effect of separation and divorce on your Will and other estate planning documents”](#).

## Is a testamentary trust suitable for your circumstances?

Although the major benefits of a testamentary trust are in the areas of wealth protection and tax advances, they are often used in blended families to provide more flexibility when distributing the [deceased estate](#).

You can read more about this in our earlier blog, [“A guide to using Testamentary Discretionary Trusts”](#).

## Superannuation assets and estate planning

Superannuation is one of the biggest assets for many Australians, often surpassing the value of the family home. It's crucial to consider the superannuation assets of all parties to a relationship and ensure that any Binding Death Benefit Nomination is up to date, particularly when you enter into a new relationship.

You can read more about this in our earlier blog, [“When should I review my Binding Death Benefit Nomination?”](#).

## Review your estate planning needs regularly

With blended families, there is a lot to consider with regard to your estate planning needs. Whether you're only just entering a new relationship or you are some years into one, it's important to regularly [review your Will](#), Power of Attorney or any other estate planning documents.

If you have children from more than one relationship, there may be significant age gaps whereby the needs of each of the children change over time. By regularly reviewing your Will, for example, you can make any necessary adjustments to account for such changes.

## Get help from an estate planning lawyer

Navigating estate planning issues in blended families may seem like a daunting task, however taking the time to consider what is best for your individual situation and seeking advice on how best you can manage your estate plan to achieve your desired outcome will be worth it, and we're here to help you through it.

If you wish to discuss your estate plan or require any advice in relation to what has been discussed in this blog, get in contact with us to arrange a consultation with one of our experienced estate planning lawyers.

### Contacting E&A Lawyers

For more information or to arrange a consultation with a lawyer, you can call or email us.

[02 9997 2111](tel:0299972111)

[info@ealawyers.com.au](mailto:info@ealawyers.com.au)

---

*This article is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact E&A Lawyers.*