



Who is entitled to see a Will in NSW?

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In New South Wales, the right to access/view a deceased person's Will is governed by the *Succession Act 2006* (NSW). This legislation outlines who is entitled to inspect or obtain a copy of a Will after the testator's death.

Are there any rights to see a Will before someone passes away?

No.

A Will is a private document and personal to the Will-maker. While a person is alive, no one (not even their spouse, children, or executor) has an automatic right to see the Will unless the person who made it chooses to share it. The decision to share a copy of the Will or its contents, or not, lies solely with the Will-maker whilst they are alive.

Sometimes, people do give copies of their Will to loved ones or advisors for safekeeping, but that is entirely at their discretion.

Is an attorney entitled to see the Will?

An attorney under an [Enduring Power of Attorney](#) is not automatically entitled to a copy of the Will-maker's Will during their lifetime without the Will-maker's consent.

Under the *Powers of Attorney Act 2003* (NSW), if an attorney sells, mortgages, charges or otherwise deals with property or assets that have been specifically gifted in the principal's Will, the beneficiary named in the Will is entitled to the same interest in any surplus money or replacement property as if the original asset had not been dealt with by the attorney.

For this reason, it is prudent for an attorney to be made aware of the assets specifically gifted or dealt with in the Will to avoid dealing with any property that forms part of a specific gift.

At the time of preparing the Enduring Power of Attorney, the Will-maker should consider whether they would want their attorney to be entitled to see their Will during the Will-maker's lifetime. If the Will-maker would like the attorney to view a copy of the Will, it can be helpful to expressly state this within the Enduring Power of Attorney.

After death: who has a right to see the Will?

In NSW, once the person has passed away, the *Succession Act 2006* (NSW) provides an outline of the persons who are legally entitled to see a copy of the Will.

Generally, the following people are entitled to a copy of the Will:

- Anyone named in the Will (whether they are receiving a gift in the Will or not);
- Anyone named in an earlier Will as a beneficiary;
- A spouse or de-facto partner of the deceased;
- A child or grandchild of the deceased;
- A parent or guardian of the deceased;
- Anyone who would have inherited if there was no Will left by the deceased (anyone who would have inherited [under intestacy laws](#));
- A person who has a claim against the estate (including a creditor);
- An attorney under an Enduring Power of Attorney or other person managing the estate as an administrator;
- The guardian of a minor child mentioned in the Will or who would have benefitted if the deceased died without a Will.

When can you ask for a copy of someone's Will?

Any one of the people listed above can request a copy of the Will or request to inspect the Will once the person has died, even if probate has not yet been granted.

There is no set timeframe within which an executor must provide a copy of the Will upon request. What is reasonable will depend on the circumstances, including the nature and timing of the request. While an executor is not permitted to withhold the Will indefinitely, they may require some time to respond and take appropriate steps to action the request, particularly in the early stages of estate administration.

What If probate has been granted?

Once probate has been granted, the Will becomes a public document. That means anyone can apply to the Supreme Court of NSW to get a copy of the Will and the probate documents (for a fee).

Why might someone want to see another person's Will?

There are many reasons why people may want to inspect a Will. Some are personal and some are legal.

- They may believe they were [unfairly left out or want to understand why they received less than expected](#).
- They may be considering whether to bring a [Family Provision Claim](#) or challenge the validity of the Will on the basis that the Will-maker [lacked testamentary capacity to make the Will](#).
- There may be questions about which Will was the last Will of the deceased.
- They may need to understand their entitlements for financial planning or legal reasons.

Whatever the reason, it is about finding the right balance between respecting the Will-maker's privacy and allowing access for those with a genuine interest in the Will or the estate.

Obligations of executors and rights of people requesting to see a Will

If you are the executor of an estate, it is important to understand your obligations as to who may view the Will and when to provide a copy of the Will. Refusing to provide a copy to someone entitled to see it for an indefinite period of time can lead to legal action or delay in administering the estate.

If you are a family member or other interested person who believes you are entitled to a copy of a Will but are being refused access, you may need legal advice - particularly if you are concerned about the validity of the Will or whether you have been adequately provided for.

Get clear advice from a Wills & Estates lawyer

If you are dealing with a situation involving access to a Will, whether as executor, family member, or beneficiary, we can help clarify your rights and obligations.

Our team can guide you through requesting or responding to a request for a Will, and provide advice if disputes arise.

Feel free to reach out to our Wills & Estates team for further assistance.

Contacting E&A Lawyers

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

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