

Who gets my stuff when I die?

Why wills are important for Aboriginal and Torres Strait Islander people

**HERE'S
WHAT
YOU DO**

Legal Aid
NEW SOUTH WALES

Making a will can stop any fights about what should happen to your things, and where you will be buried after you die.



What is a will?

It's a written document that says who you want your stuff (your money, property and all your belongings) to go to when you die.

It's a way you can look after people you care about when you die or leave them something that reminds them of you.

You can also say in your will where you want to be buried and what funeral arrangements you want.

Who gets my stuff if I die without a will?

If you die without a will your things may not go to who you want.

If there's no will the law says who will get your stuff and some people you want to give things to could miss out.

If you don't have a will your stuff usually goes to your husband, wife or partner, and if you have a lot of money, to your kids as well. You might want to leave stuff to other people you raised or to your grandchildren or other family members. To do this you'll have to make a will.

Even if you're happy for your stuff to go to your husband, wife or partner and kids you should still make a will because it makes it easier and cheaper for your family to sort things out after you die.

Where will I be buried when I die?

If there's a will

If you make a will, you need to choose an 'executor' to be in charge of making sure your wishes are followed. This person can be anyone over 18 and should be someone you trust and who you think will do what you want.

You should say in your will where you want to be buried. Your executor is also in charge of burying or cremating you so you should talk to your executor before you die about what funeral you want and where you want to be buried. Your executor still has the power to decide where to bury you but usually does what you want.

If there are fights about where you should be buried the executor can show people your will so they know what you wanted to happen.

If there's no will

There could be fights about where you should be buried if you didn't make a will. No one will be in charge of burying you so if there is a fight a court may have to decide. This will be expensive and can cause big problems in your family and community.

Wills aren't just for rich people

You don't need a lot of money or property to make a will.

You can leave stuff like photos, furniture, jewellery, artwork, copyright in an artwork or anything else you want particular people to have when you die.

Anyone who is 18 years old or over and who understands what they are doing can make a will.

Secret knowledge

You may be able to use a will as a way of passing on cultural information and secret knowledge after you die. You'll need to talk to a private lawyer if you want to do this.

How do I make a will?

It is simple and easy. It can be short and it doesn't need to cost a lot.

You can do it yourself but it needs to be signed and witnessed properly to be legal so it's safest to talk to a lawyer about this or to have a lawyer do it for you.

The NSW Trustee and Guardian (NSWTAG) charges a set fee to make and update your will unless you are on a full Centrelink Age Pension in which case they will prepare your will for free. If you appoint the NSW Trustee and Guardian as your executor, fees will apply when your estate is administered after you die.

Can I change my will?

You can change your will anytime and as many times as you like as long as you can still understand what you are doing. But if you want to change it you will need to do a new one and you should get a lawyer to help you.

If there are any changes in your life, especially if you get married or divorced or if you begin or end a relationship, you should make a new will.

Where should I keep my will?

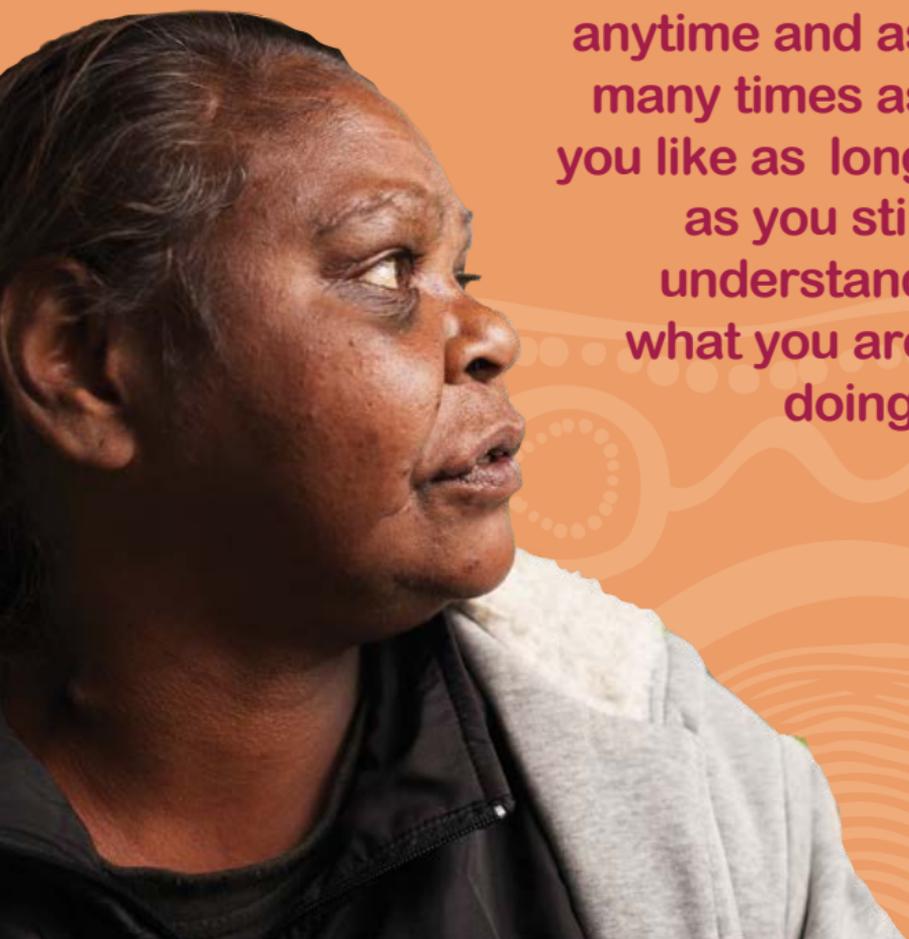
You should keep your will in a safe place at home, but where it can be found after you die. It's a good idea to tell your executor where it's kept.

You can also keep it in a safety deposit box at a bank or with the lawyer who did your will for you.

What happens if someone disagrees with my will when I die?

Some people (usually only close family and people who have lived with you or been in a relationship with you) can go to court and ask for some of your stuff, or for more of your stuff than you gave them in your will after you die. They have to go to the Supreme Court and the court will decide who gets what.

You can change your will anytime and as many times as you like as long as you still understand what you are doing.



Where to get help with wills

Aboriginal Legal Service (NSW/ACT)

ALS doesn't make wills but can suggest lawyers close to where you live who can do a will for free or for less money.

Call: **1800 765 767**

www.alsnswact.org.au

LawAccess NSW

Gives free telephone information about wills and can refer you to a private solicitor who can do a will for you. You can ask to talk to an Aboriginal Customer Service Officer.

Call: **1300 888 529**

www.lawaccess.nsw.gov.au

Legal Aid NSW

Gives free face-to-face legal advice about wills. Legal Aid NSW doesn't make wills for people, but may be able to refer you to a lawyer who can do a will for free or for less money.

Call: **1800 793 017** or **(02) 9219 5057** to talk to the Civil Law Service for Aboriginal Communities or visit **www.legalaid.nsw.gov.au**

NSW Trustee and Guardian

Prepares a will for free if you are on a full Centrelink Age Pension.

Call: **1300 364 103** for enquiries about wills and powers of attorney.

www.tag.nsw.gov.au

Seniors Rights Service

Gives free telephone legal advice for older people.

Call: **1800 424 079**

www.seniorsrightsservice.org.au

This publication is a general guide to the law. You should not rely on it as legal advice, and we recommend that you talk to a lawyer about your situation.

The information is correct at the time of printing, however it may change. For more information contact LawAccess NSW on 1300 888 529.



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