


# Where to now?

## Preserving and passing on your wealth

*How to preserve your wealth for life and protect it for future generations*



**HARWOOD**andrews  
LAWYERS



“ Have you considered what would happen to your wealth if you do not have strategies in place to protect it if you or a member of your family were sued, or experienced a relationship breakdown? ”

# Why the protection of your wealth is important

For successful private business owners, the protection and preservation of your personal and business assets is of vital importance.

Have you considered what would happen to your wealth if you do not have strategies in place to protect it if you or a member of your family were sued, or experienced a relationship breakdown?

Harwood Andrews Lawyers can help you to protect what is vitally important to you - your personal and business assets.

We are acknowledged as leaders in the creation and implementation of strategies that protect and preserve wealth. As such, we can help you define your goals, as well as safeguard yourself and future generations.

## Your outcome is our purpose.

In this booklet we outline some of the features of succession planning and asset protection strategies.



## Why are discretionary testamentary trusts important?

It is not always a good idea for family members to inherit assets or wealth in their individual capacity - what if a family member is bankrupt or experiencing a relationship breakdown?

Discretionary testamentary trusts enable control of assets to change or pass to the next generation without exposing the assets to the risks associated with ownership.

If you have children or grandchildren under the age of 18, a discretionary testamentary trust will allow income from the trusts to be distributed more tax effectively than with a discretionary trust.

The operation of discretionary testamentary trusts is not overly complicated - trust administration and operation can be streamlined. *Ask us how.*

# Why aren't discretionary testamentary trusts the whole story?

The majority of wealth, these days, is often not held personally.

It is vital that other asset holding structures are addressed, such as superannuation funds, discretionary trusts and companies.

Even the most carefully drawn and comprehensive will cannot determine with certainty how the assets are to be dealt with or to whom control is to pass on death.

Several other important documents are usually required, as well as the legal expertise and commercial understanding to draft them.



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**Harwood Andrews Lawyers successfully draws on the extensive knowledge and experience of its business law team to help successful private business owners protect and enhance their assets and wealth.**”



# Why choose Harwood Andrews Lawyers?

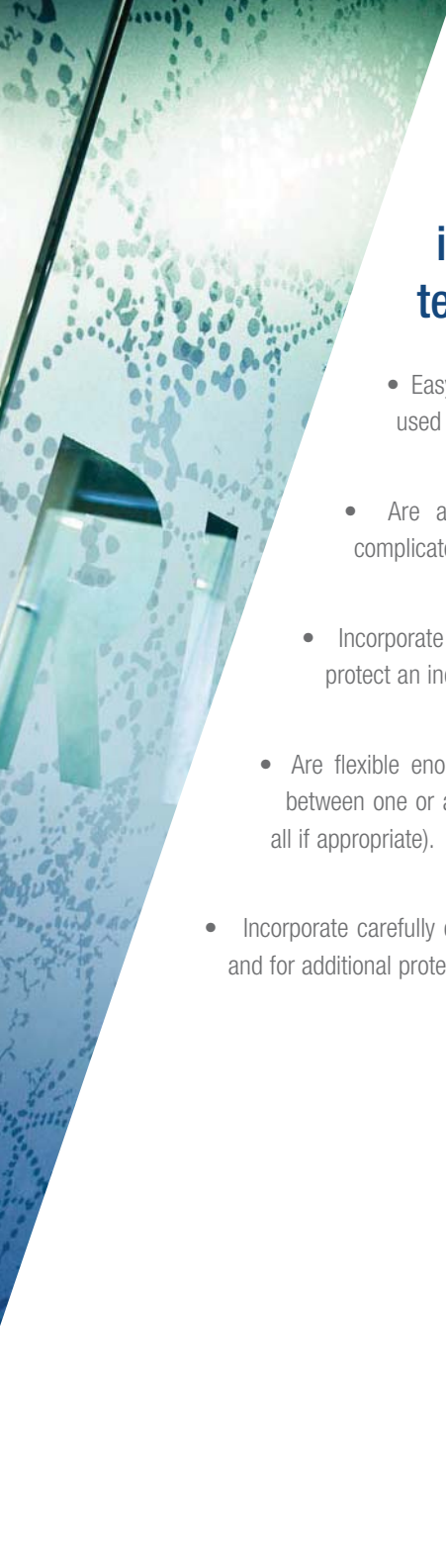
Harwood Andrews Lawyers successfully draws on the extensive knowledge and experience of its business law team to help successful private business owners protect and enhance their assets and wealth.

**“At the core of the provision of our advice is empowering our clients with the ability to manage their risk.”**

Harwood Andrews Lawyers is recognised by industry bodies as a leader in the law of trusts and their application. The Trust Structures Guide is the leading resource for anyone advising on trusts, structuring and planning issues. The guide is written by Harwood Andrews Lawyers and published by the Taxation Institute of Australia.

Harwood Andrews Lawyers prides itself on having more Law Institute of Victoria accredited specialists than any Victorian firm. We have six Law Institute of Victoria accredited specialists in Business Law, and a further four in Tax Law. This means you get the best advice available.

**“We can assist you to identify your needs and put in place the documentation to ensure your personal and business assets are protected and your goals for the future are met.”**



## What are the benefits of using a Harwood Andrews will, incorporating discretionary testamentary trusts?

- Easy to follow as we include the definitions of the terms that will be used throughout the Will.
- Are available in shorter, simpler versions for those with less complicated structures.
- Incorporate provisions to establish a superannuation proceeds trust to protect an individual's superannuation without incurring unnecessary tax.
- Are flexible enough to enable choices to be made at the appropriate time between one or a number of trusts (or to decide that trusts are not needed at all if appropriate).
- Incorporate carefully drafted appointor provisions to ensure appropriate succession and for additional protection inclusion of persons of independent mind.

- Include provisions relating to the family home designed to enable the value of the family home to continue to be protected, without forgoing the capital gains tax exemption.
- Include comprehensive statements of purpose and wishes in relation to the operation of the trusts.
- Include detailed dispute resolution provisions designed to reduce the potential for the wasting of time and costs in disputes between trustees or appointors.
- Include an automatic CPI adjustment for monetary gifts.
- Include an adjustment clause designed to equalise benefits to children who may have benefitted unequally from gifts or through self-managed superannuation funds.
- Can readily incorporate special requirements such as:
  - restrictions on capital distributions;
  - restrictions on lending from the trusts to beneficiaries;
  - restrictions on borrowing by the trusts;
  - special disability trust provisions;
  - mutual will provisions to ensure after the death of a person the surviving spouse/partner cannot change the terms of their will.





## **Our review of existing discretionary family trusts includes:**

- Amending appointor provisions to allow for succession and dispute resolution.
- Putting the appointor succession strategy in place by way of nomination deeds.
- Establishing new trusts where appropriate (using trust deeds prepared by Harwood Andrews Lawyers and which are updated regularly).

## **Our review of superannuation issues includes:**

- Consideration of existing superannuation fund deeds to ensure maximum flexibility, compatibility with the superannuation law and availability of protection of family wealth and taxation concessions.
- Establishing new superannuation funds as appropriate (using trust deeds prepared by Harwood Andrews Lawyers which are updated regularly to ensure compliance with the superannuation law whilst retaining the maximum possible flexibility with mechanisms for dispute resolution and certainty where required).
- Preparing pension agreements (including reversionary pensions).

*Also ask us about our special purpose power of attorney, designed to minimise the risks of incurring the so-called superannuation 'death tax'.*



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**Deeds of family arrangement** where appropriate to ensure all relevant family members can be bound by the strategy plan.

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## **Our review and planning in relation to companies and businesses includes:**

- Agreements such as partnership agreements, shareholders agreements, unit holders agreements and buy sell arrangements taking into account asset protection, taxation, succession and general commercial issues.
- Registration of companies with standard constitutions or with special classes of shares, such as dividend access shares (prepared by Harwood Andrews Lawyers and which are updated regularly).
- Deeds of family arrangement where appropriate to ensure all relevant family members can be bound by the strategy plan.

## **Other estate planning documents include:**

- Financial power of attorney (with or without any restrictions).
- Medical power of attorney.
- Appointment of enduring guardian (with or without wishes or restrictions).

## Where to now?

If you have any questions or want to find out more about succession and asset protection planning and how Harwood Andrews Lawyers can assist you to put in place the right strategies to achieve your goals please contact a member of our team.



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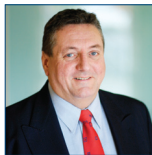
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