

# Fact Sheet

## I am a beneficiary of a Will - What are my rights?



**It is difficult grieving the loss of a loved one and it can be hard not knowing the process of what happens next and what your rights are as a beneficiary.**

### **Do beneficiaries have the right to organise the funeral arrangements for the deceased?**

As a beneficiary you may consult with the executor but the executor is under no obligation to comply with your requests. Ultimately, it is up to the executor as he/she is the person that is responsible for arranging the deceased's funeral.

### **Is the Executor required to arrange a "reading of the Will"?**

There are no legal requirements in Australia for an executor to hold a "reading of the Will" however an executor should inform family members or friends if they are named as beneficiaries in a Will as soon as practicable.

### **Can a beneficiary get a copy of the deceased's Will?**

Yes. As you are named in the Will you are entitled to get a copy of the Will from the executor.

### **I'm not sure if I am a beneficiary, can I get a copy of the deceased's Will?**

In Victoria, the following people are entitled to obtain a copy of the deceased's Will:

- anyone named or referred to in the current will;
- anyone named or referred to as a beneficiary in a previous will;
- a current spouse of the deceased;
- a domestic or de facto partner of the deceased;
- a guardian, parent or child of the deceased;
- anyone who would be entitled to a share of the estate if the deceased person had died intestate;
- a parent or guardian of a beneficiary or someone entitled under intestacy law; and
- a creditor or person who has a claim against the deceased estate.

### **What information should an Executor provide to a beneficiary?**

This will depend on what you receive or are entitled to in the Will.

Beneficiaries who are entitled to specific gifts or are left a sum of money in a Will, usually are not entitled to receive full details or financials about the estate.

Beneficiaries who receive a share of the balance of the estate (referred to as residuary beneficiaries) are entitled to access information relating to the estate. They are also entitled to receive a copy of the estate's financial statement showing the funds received and expenses paid on behalf of the estate.

### **Do all beneficiaries need to agree with the decisions made by the executor?**

No, if the executor is carrying out the wishes of the deceased in accordance with the Will they do not need to seek the consent of the beneficiaries.

However, an executor should keep beneficiaries informed about the administration of the estate.

### How long will it take to receive my entitlement from the estate?

There are no fast and hard rules as it differs for each estate. Usually, it can take up to 1 to 2 years to administer an estate, however it depends on the size of the estate and the complexity of realising the assets. If there are numerous properties or shares that need to be sold and or dealing with foreign assets this could add to the delays of administering an estate.

### Can beneficiaries remove the executor?

Executors have a duty to act in the best interests of the beneficiaries of the estate.

If an executor fails to fulfill their role, such as by neglecting their duties, and causing unnecessary delays, beneficiaries may be able to make an application to the Supreme Court to have the executor removed. This course of action has risks for the beneficiaries as the Court will not make an order to remove an executor unless the executor has been in serious breach of his or her obligations. Therefore it is imperative that beneficiaries obtain legal advice before considering such steps.

### What do I do if I want to dispute the Will?

You may want to dispute the Will on the grounds that you have not received an adequate provision in the deceased's Will or on the grounds that the deceased's Will is invalid.

Please refer to our Guides:

- *I have been left out of a Will- Can I contest it?*
- *How do I contest a Will that is not valid?*

### How can Hunt & Hunt help?

It is important to be aware of your rights as a beneficiary and understand the estate administration process and sometimes it can be overwhelming especially if the executor(s) are not keeping you informed. Our experienced Wills and Estates lawyers can advise you of your rights and also liaise with the executor(s) on your behalf.

### Contact Us today

With over 40 years' experience, our team offer new clients a complimentary consultation of up to 30 minutes to get to know and understand you and your needs, to allow us to provide you with the best advice regarding your circumstances.

Contact us at [willsandestates@huntvic.com.au](mailto:willsandestates@huntvic.com.au) or on (03) 8602 9202.


## Book your free 30 minute consultation

We are expert at finding options for you throughout the estate administration process



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