

Freecall 1800 621 071

www.attwoodmarshall.com.au

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ACN 126 248 208



Attwood Marshall
LAWYERS



ESTATE LITIGATION

Locating a Will



When someone dies there are usually family members, friends and other interested parties who may want to see a copy of the Will.

Who is entitled to a copy of the Will?

Each State and Territory have their own legislation outlining who is entitled to a copy of the Will. For further information please contact our office any time on 1800 621 071 to discuss your State's eligibility criteria. Any person who has "possession or control" of the Will must allow those persons to inspect the Will or give them a certified copy. Whoever provides a copy of the Will is entitled to payment of their reasonable expenses but these are limited to the out-of-pocket expenses incurred for producing copies, postage, etc. They are not allowed to charge any professional fees for providing this copy even if they are lawyers or accountants.



The categories of people who are entitled to a copy of the Will include:

- Anyone named in the Will (whether or not they are named as a beneficiary).
- Anyone who is named or referred to in an earlier Will as a beneficiary (even if they are not named in the latest Will).
- A parent, guardian, spouse, de facto partner or child of the deceased.
- A parent or guardian of any child referred to in the Will or who would be entitled to a share of the deceased's estate if they had died intestate (i.e. without leaving a Will).
- Any person who would be entitled to a share of the estate if the deceased had died intestate.
- Any person (including a creditor) who has or may have a claim at law or in equity against the estate.
- Any attorney who held an enduring power of attorney given by the deceased.
- Any person or entity who had formal management of the deceased's affairs (e.g. Public Trust).
- Any person entitled to bring a claim against the estate for provision (normally such a person would be covered by the categories above).

As long as you fall into one of these categories, not only can you ask for a copy of the most recent Will of the deceased, you can also ask for copies of any previous Wills and/or Codicils, parts of Wills or any documents purporting to be a Will.

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Where can I obtain a copy of the Will?

Normally the person holding the original Will will be the Executor of the deceased. In many cases the Will is held by private solicitors who acted for the deceased or with the Public Trust Office. Sometimes original Wills are left in the personal papers of the deceased and are in the control of their appointed Executors (this could be their surviving spouse, adult children or friends).

In many cases, beneficiaries in an estate have difficulties obtaining a copy of the Will from the appointed Executors. Executors sometimes withhold a copy of the Will purely out of spite or simply refuse to cooperate and use their position as Executor to exercise some form of power over the beneficiaries.

If you fall into any of the categories of people who are eligible to obtain a copy of the Will, you should attempt to obtain a copy through the usual means, however if this fails, you will need to write a formal letter of demand in accordance with the relevant section of the legislation.

If the Executor or Administrator of the estate still fails to provide you with a copy of the Will, you should seek legal advice in relation to bringing an appropriate application to obtain a copy of the Will (if the Executor has unreasonably refused a request resulting in Court proceedings, costs of the Court application could be awarded against the Executor).

WHAT TO DO AFTER YOU HAVE LOCATED THE WILL

Read more about beneficiary rights:

<https://attwoodmarshall.com.au/estate-litigation-lawyers/executor-beneficiary-disputes/>

Read more about what to do if you have been left out of someone's Will:

<https://attwoodmarshall.com.au/estate-litigation-lawyers/contesting-wills/>



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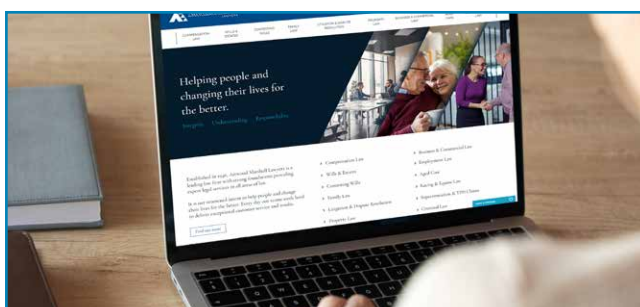
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We're here to help

We recognise the complexity of succession law and are highly reputed in the legal industry for our expertise in estate litigation. Our dedicated team practice exclusively in elder law and inheritance disputes and we are ready to help you the Public Trustee removed or obtain compensation for the mismanagement of your affairs.

Attwood Marshall Lawyers is a leading estate litigation firm with extensive experience in complex Public Trustee matters. We can provide legal services for those experiencing problems with the Public Trustees including assisting with:

- matters involving the mismanagement of affairs under financial management orders
- matters involving the mismanagement of estates where the Public Trustee has been appointed Executor
- negotiating the exorbitant fees charged by the Public Trustees
- applications to the Court to seek the Court to appoint alternative Trustees in the place of the Public Trustees



HELPFUL ARTICLES

If you would like to find out more information on contesting Wills and other estate litigation topics, visit:

<https://attwoodmarshall.com.au/news/>

Helping people and changing their lives for the better.

Integrity. Understanding. Responsibility.

Coolangatta

72 – 80 Marine Parade,
Coolangatta
PO BOX 334,
Coolangatta
QLD 4225

Open:

Mon: 7.30am - 5.30pm
Tue: 7.30am - 5.30pm
Wed: 7.30am - 5.30pm
Thur: 7.30am - 5.30pm
Fri: 7.30am - 5.30pm
Sat: Closed
Sun: Closed

Robina Town Centre

Shop 4135, Robina
Town Centre,
Robina
PO BOX 4358 Robina
QLD 4230

Open:

Mon: 8.30am - 5.00pm
Tue: 8.30am - 5.00pm
Wed: 8.30am - 5.00pm
Thur: 8.30am - 9.00pm
Fri: 8.30am - 5.00pm
Sat: 9.00am - 12.00pm
Sun: Closed

Southport

Suite 10, Level 10,
36 Marine Parade
(Commercial Tower),
Southport QLD 4215

Open:

Mon: 8.30am - 5.00pm
Tue: 8.30am - 5.00pm
Wed: 8.30am - 5.00pm
Thur: 8.30am - 5.00pm
Fri: 8.30am - 5.00pm
Sat: Closed
Sun: Closed

Kingscliff

Level 2, Suite 24,
42 Pearl Street,
Kingscliff
PO BOX 1413 Kingscliff
NSW 2487

Open:

Mon: 8.30am - 5.00pm
Tue: 8.30am - 5.00pm
Wed: 8.30am - 5.00pm
Thur: 8.30am - 5.00pm
Fri: 8.30am - 5.00pm
Sat: Closed
Sun: Closed

Brisbane

Level 27 Santos Place
32 Turbot Street Brisbane
QLD 4000

Sydney

Level 25, 100 Mount Street,
North Sydney
NSW 2060

Melbourne

Level 2, Riverside Quay,
1 Southbank Blvd, Melbourne
VIC 3006

Contact Attwood Marshall Lawyers on **1800 621 071** or email info@attwoodmarshall.com.au to speak to one of our experienced lawyers today.



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