

# Update: 22 June 2011 Estate planning for blended families



Fleming Muntz  
Solicitors



## Summary

Blended families create special problems. Children of past marriages need to be considered and their interests protected, without it impacting on the needs of a current spouse or partner.

The changing demographic of families in this modern age means the problems surrounding blended families are now more acute than ever.

## Problem areas

- Will makers forget how assets are held – without intending it, assets can automatically pass to a joint owner or nominated beneficiary, and not form part of the estate of the deceased person, thus frustrating any will provision intended to deal with that asset.
- Providing for a surviving spouse or partner, where the will maker “trusts” that person to look after the children of *all* relationships, not just that survivor’s own children. It is a dangerous approach, and one almost certain to create conflict between the children of the deceased and the beneficiary.
- Failure to recognise that natural children may only have one chance of making an estate claim, forcing the issue even where there is an excellent relationship between the surviving spouse and those children.
- Failure to see the practical difference between giving “use” of assets to a surviving spouse during their lifetime (and then passing on those assets to the will maker’s natural children), as opposed to an outright gift of those assets (hoping that the surviving spouse will pass assets on to those natural children through that survivor’s will).
- Failure to deal equitably with adult children of an earlier marriage, and younger children of a subsequent relationship, thereby creating dissent between the two groups.

For more information, please contact:



**Paul Muntz**  
Dip Law (SAB)  
Accredited Specialist Business Law  
Principal  
Telephone: (02) 6021 2222  
Email: Paul.Muntz@flemingmuntz.com.au

## What can be done?

There *are* solutions:-

- Careful planning is essential, with the recognition of the present and future needs of *all* family members.
- Planning succession in a way that protects the children of a previous relationship, but without showing “distrust” in a new partner.
- Arranging a will maker’s affairs so that the needs of each beneficiary are satisfied, in the most tax effective way possible.
- Using successful strategies to ensure fairness, such as the gifting of superannuation benefits, funding of life insurance or gifting a life estate or right of occupancy in the matrimonial home.

The object? To ensure a fair division of assets, in a manner that will give security to all parties, and minimise the potential for conflict between loved ones.

## How can Fleming Muntz help?

Fleming Muntz has experienced estate planning lawyers who are skilled in the provision of advice on life and death planning for blended families.

Our lawyers are happy to conduct workshops or information sessions for clients of professional advisers.

Please contact us if we can be of assistance to you or your clients.

### Important fine print

This update is for general information only. It is not a complete guide to the area of law. Competent advice should be obtained before taking any action.

We resent unwanted email as much as anyone – if you would prefer not to receive any further updates, please telephone us on (02) 6021 2222 or email to [enquiries@flemingmuntz.com.au](mailto:enquiries@flemingmuntz.com.au).

## Solicitors for New South Wales and Victoria

568 Kiewa Street  
Albury New South Wales  
Australia

PO Box 910  
Albury NSW 2640

[enquiries@flemingmuntz.com.au](mailto:enquiries@flemingmuntz.com.au)  
[www.flemingmuntz.com.au](http://www.flemingmuntz.com.au)

Facsimile (02) 6041 1804

Telephone (02) 6021 2222



A member of Law Australasia. The National Association of Law Firms.  
Liability limited by a scheme approved under Professional Standards Legislation.

