



What to do if you are a beneficiary?



Losing and grieving the loss of a loved one can be difficult.

If you are a beneficiary of a Will or the estate, it can also be hard not knowing the process of what happens next, what your rights are, and if the estate is being properly managed by the executor or administrator.

As a beneficiary, you have certain rights protected by law.

If you are a beneficiary, here are some actionable steps you can take.

1. Obtain a copy of Will

Tick here	What to do
<input type="checkbox"/>	If you know who the executor is, ask them for a copy of the Will
<input type="checkbox"/>	If you don't know who the executor is, but know who the solicitor is who prepared the Will, then contact them
<input type="checkbox"/>	If you don't know any of the above, please contact our Wills and Estates Planning team and we can make enquiries on your behalf

The executor/administrator's fiduciary obligation

The executor is the person named in the Will as the person responsible for carrying out the terms of the Will once the Will-maker has died. If there is no Will, the Supreme Court may appoint an administrator instead.

Any executor/administrator holds a fiduciary relationship with the estate's beneficiaries. This means that the executor/administrator must act in accordance with the Will and the law, ensuring that the estate of the deceased person is administered appropriately and for the benefit of the beneficiaries. The executor/administrator must carry out their responsibilities with care to the beneficiaries. This could include investing estate assets to ensure that the estate value is maximised.

The fiduciary duty requires that the executor acts in a timely manner and in the best interests of the beneficiaries.

2. Obtain information about the estate

Tick here	What to do
<input type="checkbox"/>	Ask the executor or solicitor acting for the estate for the inventory of assets and liabilities
<input type="checkbox"/>	If the information is not forthcoming, then our Wills and Estates Planning team can make enquiries on your behalf through a number of channels

Your right to information

An executor has obligations to inform the beneficiaries under the Will of their entitlements. If you are a beneficiary under a Will and you are not adequately informed of your entitlements, the laws in Victoria and NSW grants you specific rights to acquire information about the Will and your entitlements under it.

The [Wills Act 1997 \(VIC\)](#) and the [Succession Act 2006 \(NSW\)](#) states that certain people have a right to obtain a copy of a deceased's Will.

You have the right to be informed about any litigation about the estate that might affect your entitlements.

3. Obtain updates about the estate

Tick here	What to do
<input type="checkbox"/>	You are entitled to updates about the estate including what assets have been called in, debts and expenses paid.

Your interest in the estate

As a beneficiary, you should promptly be informed of your entitlements in the estate, including what the assets and liabilities of the estate are and what matters affect your distribution.

Once a summary of the estate's assets and liabilities is reviewed to determine the overall value of the estate, you should be in a position to determine whether you believe adequate provision has been made to you. If you are an eligible claimant and consider that the distribution of the estate does not result in adequate provision being made to you, then you may be able to make a claim for further provision.

The right to proper administration of the estate

An executor owes a fiduciary duty to you as a beneficiary and needs to act impartially and in the best interests of the beneficiaries. They have a duty to administer and distribute the estate in a timely manner, taking into consideration all relevant facts and issues which may arise.

You also have the right to be informed of the estimated date of distribution of the estate assets that you are entitled to receive, and any potential delays. Generally, specific gifts in a Will should be distributed within 12 months of the date of death of the deceased. If the distribution takes longer than 12 months, interest will be payable on specific gifts under the Will.

You also have a right to information about your interest in the estate.

4. Consider your rights and potential claims

Tick here	What to do
<input type="checkbox"/>	You may be able to claim an amount greater than what you have been left in the Will

If the executors have not performed their role properly, they could be removed and a claim could be made against them.

Your right to estate accounts

Executors are required to maintain a set of estate accounts and provide them to you if you make a request. The estate accounts should show all amounts collected into the estate, details of all payments made from the estate, all assets which have been transferred to beneficiaries, all distributions made from the estate and any assets being held by the executor on behalf of the estate as at the date of the accounts.

How we can help

Our highly experienced Wills and Estate team work closely with clients to develop a clear understanding of their particular circumstances, their wishes and the potential risks they face.

We take pride in providing excellent client service with a personable approach. We guide our clients through the issues relevant to them, help them to weigh up their options and create a bespoke and practical plan. Our legal documents are clear, concise and 'client-friendly'.

Our guiding philosophy is to make the estate planning journey as smooth as possible and to provide clients with the peace of mind of knowing that everything is in order.

Your Wills and Estates team



Ilana Kacev
Principal
Wills and Estates,
Probate and Litigation
(03) 8640 2370
ikacev@rk.com.au



Taryn Ellerington
Special Counsel
Wills and Estates,
Probate and Litigation
(02) 8987 0051
tellington@rk.com.au



Yoyo Choy
Lawyer
Wills and Estates
(02) 8987 0089
ychoy@rk.com.au



Melissa Jade Gialanze
Lawyer
Wills and Estates
(03) 9609 6716
mgialanze@rk.com.au

Russell Kennedy Pty Ltd

Melbourne Level 18, 500 Bourke Street, Melbourne VIC 3000 Australia T +61 3 9609 1555 F +61 3 9609 1600

Sydney Level 24, 135 King Street, Sydney NSW 2000 Australia T +61 2 8987 0000 F +61 2 8987 0077

E info@rk.com.au russellkennedy.com.au

Liability limited by a scheme approved under Professional Standards Legislation.

