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Next Issue: Police Interviews—When it is Ever Good to say Anything?

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TRUSTS AND INHERITANCE

One of the most contentious issues of Family Law is inheritance.

Often when someone is left out or feels they haven't been treated fairly a challenge can be made to a Will.

An area of most contention is when the deceased has entered into a second or subsequent marriage in circumstances where there are no children of the second or subsequent marriage but the deceased had children from a prior relationship.

If the deceased owned all their property jointly with their new spouse, that new spouse will take all assets by survivorship regardless of the deceased's Will.

Alternatively their Will may simply state that they give everything to their spouse.

If this occurs and the surviving spouse makes no provision for the deceased's children from their prior relationship then the likely outcome in those circumstances would be that the deceased's children will never receive an inheritance and their assets will end up in the hands of strangers.

Peter is a widower with two teenage children Anne and Rachel. He remarries Sonya who has three grown up children. They pool their resources and buy a house together. Their Wills provide for each other only. Peter dies ten years later and Sonya inherits everything. As time goes by Sonya has little to do with Anne and Rachel. As a result Sonya makes no provision for them in her Will. When she dies her

three children inherit everything and Anne and Rachel receive nothing. This happens more often than you think.

Another area of concern is where children of the deceased who are married or in a de facto relationship receive their inheritance and use it to pay off a debt over their family home.

If their spouse then leaves them they will be entitled to take a one half share in the equity in the relationship home. If the mortgage has just been paid off using an inheritance that inheritance has been converted to relationship property and effectively becomes halved immediately.

For example James and Teresa have two children, Steven and Helen. Helen is married to Jeff. James and Teresa die tragically in a motor accident. Steven and Helen inherit \$300,000.00 each. Helen uses her inheritance to pay off her and Jeff's mortgage. Unbeknown to her Jeff has been having an affair and six months after their mortgage is paid off he leaves her and claims half the house and effectively half Helen's inheritance. This also occurs more often than you think.

A Family Trust can prevent these scenarios from occurring.

A well thought out estate plan involving a Family Trust can ensure that a family's wealth stays within the family and is not eroded by relationship breakups of succeeding generations.

If preserving an inheritance is important to you please contact Eugene Collins to arrange a 20 minute free no obligation consultation to discuss your particular circumstances.