

Estate planning more important than ever

BY SANDRA E. MARTIN, FOR POSTMEDIA NEWS; FINANCIAL POST OCTOBER 27, 2012

Presented By:



Lianne Phillipson-Webb and Chris Webb are a thoroughly modern couple, with two busy careers and two active young daughters. But when it comes to their wills, they are at a thoroughly modern standstill.

The Toronto pair - she's a nutritionist with her own business, he's a sales manager for a security firm - agree they need to create an estate plan for the care of their seven- and nine-year-old children. Trouble is, says Lianne, "my sister, who we were thinking of [as guardian] now lives in Australia." Chris's parents live two hours away in Muskoka, and the rest of Lianne's family is in England.

Any of those three options would take the girls away from their home, friends and school. It's a common conundrum, says Dylan Reece of Nicola Wealth Management in Vancouver. Parents want to make sure their kids will be well cared for, but find it difficult to identify or agree on the ideal guardian. "It's the one area that deters people from drafting a will," he says.

Only about half of adult Canadians (age 18 and up) have an estate plan, according to surveys conducted by the BMO Retirement Institute. Those plans are not necessarily up-to-date, notes Marlina Pospiech, senior manager at the institute. While the proportion jumps to 70 per cent among Canadians age 45 and older, the percentage who don't have a will hasn't changed over the years, Pospiech says.

"It's something people tend to procrastinate about. They think they're too young, or they don't need one; they don't want to think about their death or they think their estate is simple," Pospiech observes. Some are even superstitious, believing that creating a will may bring about their death. Others hold off because they think it will cost a lot of money. In fact, a basic will can cost as little as \$200 at a firm like Jane Harvey Lawyers. In the context of our increasingly complex lives, BMO says estate planning is more important than ever.

"In the not-too-distant past, your executor could look through paperwork statements to locate various assets," says Pospiech. Most Canadians now use online banking, for instance, which means they must let their heirs know of the existence of online accounts, as well as give permission to access them.

There is the potential for loss of wealth if you own valuable domain names, have collected a substantial store of points in a loyalty plan or have money in a PayPal account, but haven't disclosed these to your executor.

Where our grandparents might have passed along beloved record collections or photo albums, the report notes, types of heirlooms are now often maintained in digital form. Without specific instructions from your will, how will your beneficiaries access these files? When frequent password updates are required, how do you keep password information up-to-date in your estate plan?

What if you want to bequeath your computer hardware to one relative, but the digital assets stored on it to another? "Technology has advanced faster than the estate laws," Pospiech says. "It's only going to get more complex."

For example, she says, the law doesn't cover what your executor should do with your digital assets, yet your executor has an obligation to look after them. Even some of the web services themselves have not created policies regarding what happens to a user account once the user is deceased. (For a broad look at about four dozen different international web services, see deceasedaccount.com.)

The rapid change we're seeing in this area is a strong argument for creating an estate plan, and updating it at least once every couple of years, or sooner if you experience a major life change, such as a marriage, divorce or birth of a child.

There is no question our families have grown more complex. According to the BMO report, 18 per cent of Canadians are caring for an elderly parent, relative or friend and 13 per cent of these caregivers are helping out financially as well.

"Many households now are supporting both children and parents," agrees Reece, who is also a member of Advocis, the Financial Advisors Association of Canada. And while most people do not include older dependents in their wills because they believe it's unlikely those dependents will outlive them, he recommends clients in this situation create a trust that will provide income to their older dependents - let's say it's their elderly parents.

This allows the client's estate to support their surviving parents while reducing clawbacks to any pension money or government benefits they're receiving. When the parents pass away, residual capital in the trust can revert to the client's children or other family members of their choice. Chris Webb isn't too concerned about his lack of an estate plan: "I'm under a bit of a delusion, I guess, that among our [remaining] family, it would get worked out," he says.

Yet, according to Pospiech, even a 'conventional' family like this needs a will; otherwise the laws of your province will dictate who inherits your assets and who receives custody of your children.

The provincial formula is "based on family ties in a particular order," she says, so, depending on where you live, your parents may be first in line, rather than the sibling you would prefer to care for your dependents and your estate; a distant nephew may be put in charge of all you have worked hard to amass, rather than a very close friend. "It's their formula, which doesn't necessarily reflect yours," Pospiech says. "You lose control of your wishes."