

Who will look after my grandchildren when I'm gone?

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Estate Planning

- Who do you owe obligations to?
 - Spouse/partner
 - Children
 - Grandchildren
- How do you deal with competing obligations?
- What legal options are there?

Scenario 1

- Mother dies
- Father can't cope
- Children go to grandparents
- Father won't give up custody and won't allow parenting orders
- Grandparents left to compete with father over children



Issues

○ Mother's wishes / no Will

○ Rights of the father

○ Children's best wishes

○ Guardianship - parenting orders

○ Grandparents' ability to care for grandchildren

○ Who do I leave my estate to?



Scenario 2

- Young Maori woman has a child
- Her parents assume parenting role under whangai situation
- Parents raise the child as their own

Issues

Whangai children cannot inherit under intestacy

Guardianship – daughter may not have formally given up guardianship rights

Parents have duty to both daughter and grandchild



Scenario 3

- One child intellectually and physically disabled
- Mother cannot cope
- Grandmother steps in – little financial support from parents

Issues

○ Child's long term emotional and financial needs

○ Who cares for child on grandmother's death?

○ Welfare guardianship v. enduring powers of attorney

Wider family's needs

- Obligations to Spouse/Partner (PRA)
- Obligations to children
- Do you favour one over another?
- Can you exclude a child from your estate? (FPA)
- Obligations to grandchildren
- Can you favour grandchild over child? (and should you?) (TPA)
- Protecting a grandchild – guardianship - Trust

Wills

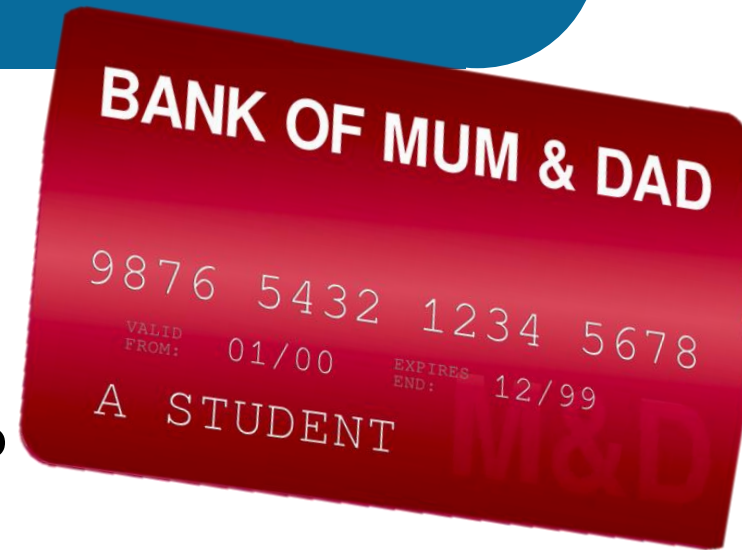
- Executors – who to choose
- Testamentary guardianship
- Spouse/partner – impact of PRA
- Competing beneficiaries
- Size of estate

Trusts

- Discretionary trusts
- Special purpose trust
- Choosing your trustee
- What assets do you settle on trust?
- Gifting
- WINZ

Grandparents' needs

- Obligations to self
- Who looks after grandparent?
- What's your financial position?
- Can you look after yourself and grandchildren in old age? Can you afford to take on someone else?
- Power of attorney – property / personal care and welfare



Conclusion

- Each situation is unique to you and will change
- Keep Wills valid – review regularly
- Choose executors, trustees and attorneys with care
- Be proactive not reactive



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