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Funeral and property disputes impacting women

There has been an increasing number of disputes following the death of a family member, in large part because people didn't communicate what they planned to do with their assets as well as what they wanted to happen to their remains, says Anna Hacker, Wills & Estates Accredited Specialist at Australian Unity Trustees.

"It's a particular issue for women as they tend to outlive their spouse and also take on the lion's share of caring for elderly family members," Ms Hacker says.

"Communicating what you want to happen to your remains after you die may sound like an awkward conversation to have, but it's important that people start having these discussions with their loved ones and not delay the conversation until it is too late.

"In Australia, we have become protected from the reality of death compared to other cultures, and talking about Wills and funerals is not always encouraged. However this can give rise to significant problems.

"It's perhaps not the most common dinnertime conversation, but almost everyone has a strong view about what they would like to have happen to their remains after they die.

"For example, many people don't like the thought of being buried at all, and would prefer to be cremated. Others shudder at the thought of donating body parts to medicine or science. It's a very personal decision."

Ms Hacker says that it is a particular issue for women.

"In the first place, women usually outlive their spouses and, as a result, there may not be anyone left who knows what they want their funeral to be like.

"A common scenario might be someone who no longer holds the cultural or religious traditions they grew up with, and therefore no longer want to be buried according to particular rites. But if their children don't know this, they may assume their parent wanted a traditional funeral.

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“Family members need to know how you would like to be farewelled, as well as details around your views on organ donation or keeping you alive through machines.

“It’s usually the case that daughters are the ones caring for elderly parents, and therefore shoulder the burden of making arrangements when their parents die.

“As a result, they might be the only ones who know about a parent’s wishes for their funeral, and end up trying to explain to other family members that their mother wished her ashes to be scattered at sea rather than, for example, buried next to their father.

“At an emotional time, this is not the kind of debate and disagreement that a family should be having.”

Ms Hacker said that Indigenous people are another group particularly likely to experience a funeral or burial dispute.

“Sometimes a person has rejected their Aboriginal heritage but other family members still abide by the traditions and expectations. It can be very hard for surviving family members to accept that a loved one doesn’t want to be buried in the way that their heritage would usually require.”

Ms Hacker said that with the increasingly varied options available to people, it is likely there will be more and more disagreements.

“I’ve heard of people getting “commemorative tattoos”, where some of the cremation ashes are added to the tattoo ink, and we’ve probably all heard of people having their ashes shot into space. Another option is an egg-shaped pod that holds a person’s ashes and can be buried below sapling trees.

“Again, it comes down to communication with family and loved ones. While any directions left in a Will are not legally binding, ensuring that preferences are properly communicated offers the best chance of getting the send-off that you want,” Ms Hacker says.

She added that she is starting to see initiatives that encourage people to prepare for their own death in a rational and sensible way.

“In the US, there is a program called “Death Over Dinner” that helps people gather family members together to talk about what kind of care, and what kind of death, they want. It has also been launched in Australia.

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“These kinds of initiatives could go a long way towards breaking the trend we are seeing in Australia, of a growing number of family disputes ending up in court following the death of a loved one – which is almost always a lengthy, expensive and distressing experience,” Ms Hacker said.

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Australian Unity Trustees Limited (ABN 55 162 061 556) was established in 2017 to provide a range of trustee services to all Australians including: estate planning; executor appointments and estate administration; financial attorney; financial and legal administration; and the establishment and management of personal, native title, community and charitable trusts. It is the first traditional trustee Australian financial services licence issued since the establishment of a national licensing framework for traditional trustee activities.

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