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ESTATE PLANNING ARTICLE

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Divorce planning for the children

DIVORCE - START OF THE END

The marriage may be over. Yet, here lies the start of planning for a multitude of areas before one should consider proceeding with a divorce.

Firstly, do a stock take of the current scenario regarding your assets. What assets do you and your spouse share? Your joint accounts, immovable property held in joint tenancy or tenancy in common, assets in spouse's name but paid for by you etc. Besides the things you have bought together or during the lifetime of the marriage, were there gifts that could potentially be considered matrimonial assets? Prepare all documentation to back up your claims when it is time for division of these assets.

Secondly, maintenance for the children. What would be their living arrangements be like? Education funds and medical insurance are easier to quantify but may not easily be agreed upon by both parents. Would the child be completing their education locally or overseas? What are the parents' respective contributions to the preparation of the education fund? The living expenses of the children require even more detailed planning. What type of extra-curricular activities are both parents agreeable to fund?

All these are important to plan for in order to minimise the amount of disruption in the child's growth and development.

In the case of a neurodivergent child, extra care needs to be taken to select a dependable contingent caretaker the child is familiar with. A deputy is likely also needed to manage the child's affairs for life.

As the events and interpersonal relationships in every divorce is unique, do speak to a professional estate planner to streamline your plans and attain your objectives.

Remember that a divorce will terminate your ex-spouse's appointment as your Lasting Power of Attorney (LPA) donee, but it will NOT revoke your existing:

1. Will
2. CPF nomination
3. Irrevocable and revocable insurance nomination

Where applicable, review your plans as soon as possible, such as removing your ex-spouse as beneficiary. You may amend your decision later but it is better to get these changes implemented quick in case of adverse events. Your estate planner should work closely with you to effect these changes.

STRAINED RELATIONS

Navigating the 3Cs

Custody – the legal right to make major decisions regarding a child's upbringing in areas such as education, healthcare and religion.

Care and control – involves the day-to-day responsibilities of raising a child

The 3Cs can be awarded to the parents jointly or solely.

When determining the 3Cs, the Court prioritises the best interests of the child. Factors like the child's emotional/physical needs, stability and relationship with each potential guardian or parent, are carefully evaluated. In the case of strained relationships, mediators can facilitate productive discussions and help involved parties find common ground. Note that the biological parent may not have priority over the testamentary guardian on the 3Cs!

A CHILD'S DIVORCE PLANNING

Adult children planning for THEIR parents' divorce

Even as an adult, their parents' divorce can be a source of emotional and logistical upheaval. A young adult may have to re-evaluate their living arrangements if they do not have the financial means to live apart from their parents. Choosing to live or be closer to one parent may also have other repercussions later. The change in emotional dynamics would mean that the adult child may find that their parent is unsuitable to continue playing a role in their estate plans anymore.

If there exist important roles for the parents in their estate plans, the adult child will have to reexamine the current plans to see if they still match their goals. For example, is it in the adult child's best interest for both parents to be their LPA donees acting jointly, even though they no longer see eye to eye with each other? It may be more suitable to nominate a trustworthy, younger individual who is able to stand up to the family and fulfil the adult child's wishes.

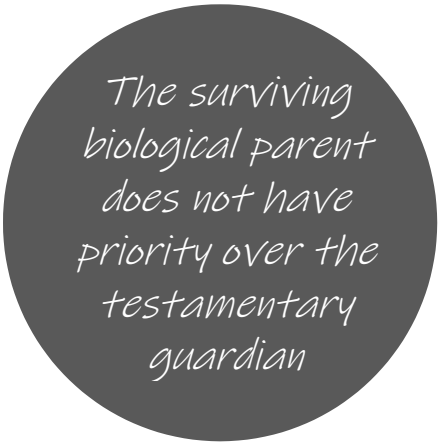
With a clear understanding of existing arrangements, the next step is to implement the changes across the tiers of the estate plan to reflect their wishes. These instruments could be, and are not limited to, wills, CPF nominations, insurance policies nominations, Advanced Care Plans, LPA, etc. This ensures that the adult child's wishes are fulfilled according to their current intentions, rather than defaulting to outdated arrangements.

In cases where substantial assets are involved, establishing a trust could be a protective measure to prevent either parent from staking a claim during the divorce proceedings. Not only does this shield the adult child's assets, it offers a structured means of management. This would be particularly useful if the parents are not as financially literate.

Given the complexity of each case, professional guidance from estate planners would be prudent. A tailored approach for the family's situation offers the highest chance of preserving as much harmony as possible in the surviving ties.

In the best-case scenario, the adult child could communicate these changes directly to the parents to minimise the potential for misunderstandings or conflicts, particularly if the will or LPA needs to activated during a time of family discord. If this fails, hiring a neutral third-party or estate planning professional who could mediate on the child's behalf may be helpful.

Traditionally, we might think that a divorce only affects the couple and their children. As we live in an ecosystem of interdependent relationships, the effects of a divorce ripples further out than we imagine. In the next issue, we will continue to explore the perspective of other parties and the impact of one couple's divorce on them.



About the author:

Felice is an experienced estate planner with 7 years in financial industry. She specialises in LPA, Trust and Will planning. She holds CFP and HNW advisor certifications

She is currently active in promoting ACP and LPA planning to the aging population. An avid aerialist, she believes in mental, emotional and physical work life balance.

Felice is an active AEPA member.