

Getting personal - protecting your personal assets

[Tony Wilkinson](#), [Danielle Elley](#), [Julia Gabrielle](#)

23 April 2018

Our modern, globalised society offers huge opportunity and reward, but also exposes us to risks that our forebears didn't face when providing for future generations. People are living longer than ever before, families are becoming increasingly diverse and complex, and the movement of people and assets across national boundaries is becoming increasingly common, all of which present new challenges.

Personal asset planning (meeting these challenges using legal tools such as family trusts, wills and relationship property agreements) is therefore becoming one of the most dynamic and topical areas of the law in New Zealand and overseas. Recent years have seen a dramatic increase in disputes and litigation relating to trusts, estates, relationship property and other personal asset planning matters. Trust arrangements in particular are being successfully challenged, or 'busted', ever more frequently.

Against this backdrop, new legislation (a Trusts Bill) is making its way through Parliament which, if passed, would be one of the most significant events in the personal asset planning environment in New Zealand since the current Trustee Act was passed more than 60 years ago. The Bill will among other things increase the lifespan of private trusts, have significant impacts on trustee obligations and provide creditors with easier access to trust assets in some circumstances. Relationship property law is also being reviewed, which could lead to yet more legislative change.

"A personal asset plan is not something you can 'set and forget', but instead must evolve over time to ensure that it continues to meet the needs of the family it serves."

To protect themselves, individuals and families must approach their personal affairs in a way that matches the dynamism of the law in this area. A personal asset plan is not something you can 'set and forget', but instead must evolve over time to ensure that it continues to meet the needs of the family it serves. It is also not something that can be pulled off the shelf in boilerplate form and applied to everyone - what is optimal for one individual or family may not be for others. Every plan is tailored bearing in mind factors such as the source of the family wealth, the unique needs of each family member (including their future prospects and their degree of interest in and aptitude for any family business) and the broader risks and challenges (legal and otherwise) that the family faces.

The price of failing to adapt to the changing legal environment or, indeed, to ensure that your arrangements grow and change with your family, can be high. The trust, will or relationship property agreement that you put in place many years ago may be increasingly likely to be subject to challenge as time goes on. As in many things, preparedness and good management are key - understand and honour your current arrangements and associated obligations, and regularly review and update as circumstances change.

View our [personal asset planning brochure](#).

This article was written by [Tony Wilkinson](#), partner and Charlotte Beale, senior solicitor.

Auckland

188 Quay Street
Auckland 1010

PO Box 1433
Auckland 1140
New Zealand

P: +64 9 358 2555
F: +64 9 358 2055

Wellington

Aon Centre
1 Willis Street
Wellington 6011

PO Box 2694
Wellington 6140
New Zealand

P: +64 4 499 4242
F: +64 4 499 4141

Christchurch

83 Victoria Street
Christchurch 8013

PO Box 322
Christchurch 8140
New Zealand

P: +64 3 379 1747
F: +64 3 379 5659

