

# What to know when preparing your will

**H asks if you can leave a close relative out of a will.**

When you make a will you will go to the people you want it to.

You can leave close family members out of your will or recognise family members in unequal shares if there are good reasons for it, but the will may be challenged as a breach of your duty to provide for those family members.

There are four main restrictions on doing what you want in your will:

1. There is a moral duty on the will-maker to adequately provide for the proper maintenance and support of people entitled to provision from their estate. These are their spouse, civil union partner or de facto partner, children, dependent stepchildren, grandchildren and parents (in special circumstances).

The duty to provide is not limited to those who need financial assistance.

Many well-off claimants have received substantial payments from the estate for non-financial reasons, such as an acknowledgement of their place of belonging in the family. The amount of payment will vary in all the circumstances of the particular case.

2. The law allows a person



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who has performed some service or work for the deceased in return for a promise of reward in the will to claim from the estate. The work provided and the promise to reward the worker in the will must be related to each other.

The amount awarded will be confined to reasonable compensation for the work actually done for the deceased.

3. The partner of a deceased person can claim a 50 per cent share of his or her estate instead of receiving whatever they were left in the will.

If the survivor of the relationship is not bound by a Contracting Out agreement and is not adequately provided for in the will, then a claim for equal sharing can be made.

4. The will-maker must be of sound mind when making the will and must not have been unduly influenced or fooled into making certain provisions in the will.

If you want to leave your property in a way that differs from normal, it is important to tell your lawyer why and to provide good evidence to back up those reasons.

That will enable those reasons to be included in the will, and for the court to take those reasons into account if a claim on the estate is made.

**H asks what the situation is if a neighbour cuts back a boundary hedge and destroys the hedge.**

A hedge that runs along the boundary of adjoining properties is a fence under the Fencing Act 1978.

That means that both neighbours have to contribute to the maintenance of the hedge. There are no specifications under the act as to how high or wide the hedge can be, but any live fence (a hedge) must be "close and sufficient".

It must be thick enough to act as a proper fence.

If one neighbour cuts a hedge back and destroys it as a fence or kills it, then they will have damaged the "fence" and be liable for its repair/replacement.

Column courtesy of Rainey Collins Lawyers, ph 0800 733 484. If you have an inquiry you would like discussed, email Alan on [aknowsley@raineycollins.co.nz](mailto:aknowsley@raineycollins.co.nz).

# Sustainability discussed

By KRIS DANDO

A one-day seminar on sustainability at Hongoeka Marae covers alternative power sources, composting and growing organic food.

Organiser Wiremu Grace said it was a coup for the marae to get several respected speakers, who are attending a permacul-

ture conference in Wellington.

Grace said the day would comprise hands-on activities and lectures, to stimulate thinking on topics such as creating sustainable neighbourhoods.

"We just want to inspire the public a bit, get them talking and the debate going."

Grace said he would like the seminar to be the starting point

for a wider discussion with Porirua's civic leaders about planning in the city.

The seminar on April 24 begins with a powhiri at 9am and runs until 5pm. There is a sliding scale cost for community cards holders (\$5 to \$20) and waged (\$25 to \$50).

Register on the day or email [ngaitaana@hotmail.com](mailto:ngaitaana@hotmail.com).