

Cuts to Public Trustee services risk more people dying without legal wills

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A dramatic cut in services offered by the Public Trustee will lead to more people dying without a legally sound will, welfare and legal groups have warned.

As part of savings measures demanded by the State Government, the Public Trustee will only write wills and power of attorney documents for the most disadvantaged people on pensions or other benefits.

Previously, the Public Trustee would prepare a will or enduring power of attorney document for a reduced fee of around \$300 — but most will be forced to engage private lawyers, who generally charge at least \$800 — when the changes take effect on July 1.

SA Council of Social Services chief executive Ross Womersley said while heartened that pensioners and concession card holders would still be eligible, an increasing number would simply be unable to afford to pay such fees.

“There is a growing cohort of people who are not actually in receipt of any benefit payment but are managing to get by through poorly-paid work or inadequate amounts of work, but remain just above the cut-off for benefits,” Mr Womersley said.

“Those people will find it quite challenging to find the means to prepare the instruments of wills and powers of attorney but we want all people to have that opportunity.”

Mr Womersley feared the savings within the Public Trustee could be offset in the long term by an influx of poorly-constructed wills or power of attorney documents and more people dying intestate.

“This again highlights the tension that occurs when our governments have restricted access to revenue — they in fact cut services that are really important to our community,” he said.

A spokesman for Attorney-General Vickie Chapman said the changes brought South Australia in line with other states that did not provide free will-making services and recouped the costs after a person’s death from their estate.

“The fact is that around 40 per cent of the wills prepared by the Public Trustee end up being withdrawn or revoked by clients, who often go on to create a new will or enduring Power of Attorney independently,” the spokesman said.

"The Public Trustee estimates half of its clients for will-making services are concession card holders, which is why ... they will continue to have access to these services."

Law Society of SA president Amy Nikolovski warned that online or DIY will kits were often found to be inadequate, which risked "leaving behind a mess for loved ones to deal with".

"Anyone concerned about how their assets will be distributed after their death needs to have a watertight will that complies with probate rules and can stand up in court," Ms Nikolovski said.

"A shortcoming of DIY wills is that there is no legally qualified practitioner to ensure the wishes of the will-maker will be carried out.

"DIY Wills are limited in their capacity to express the complexities and nuances of Will-makers' circumstances and instructions, and this can lead to unnecessary economic and emotional family hardship."

Legal Services Commission senior manager Chris Boundy said it was too early to predict if the changes would have a significant impact, adding the commission could provide advice on enduring power of attorney documents.

"We also sell a Do It Yourself Enduring Power of Attorney Kit that guides people through the process of preparing this document themselves," Mr Boundy said.

Attorney-General's Department chief executive Caroline Meador told a Budget and Finance Committee hearing earlier this month the cuts were suggested by Acting Public Trustee Nicolle Rantanen.

"It's partly (to meet savings targets) but it is also partly about relooking at the business that the Public Trustee is in and focusing on providing services for vulnerable people and narrowing that down," Ms Meador said.