

Estate Planning Family Meeting Guide

Enhanced Estate Planning

At the core of an effective and successful estate plan is the communication among everyone involved so that there is an understanding of your intentions and wishes. It is not possible to consider all the situations and decisions that you and your family may face. But by sharing the thoughts, wishes and goals to be achieved by an estate plan, it is possible to give your family, heirs, and beneficiaries an understanding of the intentions on which the estate plan is based.

Enhanced estate planning consists of 4 key components that should be considered for the preparation of a well thought out estate plan:

1. Family meeting about the estate plan
2. Establish or update the will and powers of attorney
3. Put proper insurance in place
4. Appointment of an executor

This guide will help you get started with the first component: Family meeting about the estate plan.

In this guide there are 3 steps to having an effective family meeting about the estate plan.

Step 1: What does your estate plan look like?

Step 2: Have the family meeting

Step 3: Next Steps after the meeting

Why the conversation is important?

The personal and relational issues in estate planning are often forgotten or assumed to take care of themselves. Yet, in actuality, not addressing these issues often leads to emotional stress, misunderstandings and ongoing family conflict. The good news is that with a little planning and open communication there is the opportunity to leave behind peace, clarity and order for your family,

friends, and charities. See how other Canadians feel about this topic.

Majority have talked with family about estate planning, but most talks have been informal

- Four-in-five (82%) Canadians with an adult child 40 years of age or older have had a conversation with them about their legacy goals and estate plans, but for most this has been an informal talk – just one-in-four (27%) have had a detailed conversation.
- From another point of view – 64% have talked with their parents about this; only 22% say this has been a detailed conversation.

There are benefits to having the estate planning conversation

Over half of Canadians identify three major benefits to having an estate planning conversation:

- Avoiding conflict after the death of a loved one (59%)
- Making sure everyone fully understands decisions (54%)
- Ensuring financial and personal assets are appropriately distributed as per wishes (54%)

Those who have not had detailed estate planning conversations recognize the downsides

The largest drawbacks of not having the conversation:

- Conflict between family members after the death of a loved one (54%)
- Unpleasant surprises after the death of a loved one (42%)
- Legal complications (37%)
- Financial/taxation issues (22%)

Source: BMO Wealth Institute survey by Pollara, May 2013

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Step 1: What does your estate plan look like?

It's important to begin by asking yourself what legacy you would like to leave for future generations. Many people associate the word "legacy" with money and assume it means leaving a financial inheritance. However, this definition should be significantly broadened to include the personal and relational aspects of life. When expanded, legacy is about

leaving behind the essence of who you are for future generations: your stories, your memories and your values, as well as, any financial inheritance. Within the context of this broader definition a three-step approach should be taken to increase the likelihood that the legacy you intend to leave is the one that is actually left.

A. Engage in self examination about your legacy

Begin by asking yourself a series of questions to determine the legacy you want to leave. These questions might include:

- When I am gone, what would I like people to say about the way I lived my life?
- What would I want future generations to remember about me?
- What qualities would I want people to say I possessed?
- How do you want to be remembered?
- What do you want people to say about you?

B. Gather documents

This would include your will, power of attorney for property and advance directives such as a living will and power of attorney for personal care. If you have already prepared the documents, you should review them in light of step one to determine if your intended legacy is reflected within the estate planning documents. If you have yet to prepare the documents, be mindful to create documents that reflect the legacy you wish to leave.

C. Prepare a list of your assets, their value, their cost and who owns the asset.

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D. Prepare a list of personal possessions that have significant emotional value to you and/or your loved ones.

For example, if fairness was identified as a quality you want people to say you possessed, then you would need to ensure that fairness is clearly reflected in the documents, or if not, then provide an explanation.

Perhaps you have chosen to leave more money to one child than another. There may be a very good reason for doing so; however, without an explanation your heirs might interpret this as unfair. An explanation might prevent years of emotional strain and family conflict.

Dividing possessions holding emotional or sentimental value rather than monetary value is also something to consider. Some families create a system where everyone gets to choose a possession in turns, with the first person chosen by a random drawing. However, if you have a possession or possessions that you know are loved by several of your heirs it may save significant heartache to agree now about how to manage the distribution of these possessions. This is even more important in light of the large number of second marriages and blended families.

The Executor of your estate will administer the estate as per your instructions in your will and will carry out your wishes with respect to distribution: Things to consider:

Power of Attorney for Property: Authorizes someone to make decisions about your finances should you become unable to do so. What are some qualities and practical considerations when choosing a Power of Attorney for Property?

Advance Directive or Power of Attorney for Personal Care: Authorizes someone to make decisions about your personal care should you become unable to do so. Who do you need to talk to? What do you need to talk about?

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E. Open conversations with loved ones

Finally, have open and honest conversations with your loved ones about your wishes, those written in your advance directives and in your will. The more open you are in these conversations the more likely your wishes will be carried out and your legacy ensured.

Step 2: Have the family meeting

When you're ready to have the family meeting, consider the following:

WHO DO YOU WANT TO TALK TO?

- Mom
- Dad
- Partner/Spouse
- Grandmother
- Grandfather
- Charity Representative
- Child/children: _____
- Grandchild/children: _____
- Relative(s): _____
- Friend(s): _____
- Caregiver: _____
- Other: _____

WHEN WOULD BE A GOOD TIME TO HAVE THE MEETING?

- The next family gathering or holiday
- At Sunday dinner
- Before next trip
- Before I get married again
- Before I get sick again
- Other: _____

WHERE WOULD YOU LIKE TO HAVE THE MEETING?

- At the kitchen table
- In the family room
- At the cottage
- In the backyard
- At the park or garden
- On a walk or hike
- Other: _____

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Conversation starters to kick-off the family meeting:

For adult children approaching parents:

- I've recently attended a seminar called Creating Good Will hosted by BMO Financial Group and ...
- Begin the conversation with wanting to understand what your parents want; something like, "Dad, I really want to carry out your wishes, but I need to better understand them. Do you want to pass down property to the family? Do you want to be able to draw down money from your assets to help care for you and Mom? Have you thought about ways to avoid high taxes and lengthy probate?"
- Acknowledge that you fully understand that this is their money. Advance planning on their part means that they can keep control. Your goal is to help them keep control—not relinquish it to government or strangers in some courtroom.
- Stay focused on your parents' concerns. This is about them—not your needs or wants. Perhaps they're worried that they'll outlive their resources, or that the kids will fight over the estate and the family will break apart. They may be struggling with finding a fair way of dividing up what they'll leave behind. Rather than confront these issues, they'd rather not talk about them or just plain avoid them altogether.
- If you feel they're uncomfortable talking with you, ask them to see a financial planner.
- One way of approaching the issue more subtly is to share with them your experience of setting up a will or doing your own estate planning: "Mom, you'll never believe what I learned the other day, if I set up a trust I can" Or, "I just filled out my living will, and did you know that ..." or "Dad, I want you to know that I named Jeff [husband] as my durable health care power of attorney. This is how it works ..." These create an opening to discuss how your parents have addressed or not addressed these issues.

Source: <http://life.familyeducation.com/estate-planning/aging-parents/50442.html>

For parents approaching adult children:

- I have been thinking about the future and I would like to share my thoughts with you...
- I was thinking about what happened to _____, and I want to make sure that I'm prepared OR and it made me realize...
- I have gathered the family together because I need your help with something.
- My independence is important to me, but I have made arrangements just in case I need help in the future. I would like to talk to you about them...
- I'm meeting with you because I want to share some details about my estate plan.
- I want to take this opportunity to talk about my wishes and intentions for all of my possessions when I am no longer here.

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Helpful tips for the meeting:

Before you begin the discussion about your estate plan, here are some helpful tips to have Essential Conversations:

1. Clearly identify the issue – do this first when you begin the meeting and be concrete and clear.
Clarify for example: “I just want make sure we are all on the same page... I think we are talking about X today. Is that what you think, too?”
2. Avoid assumptions and expectations – recognize that everyone will likely see the situation differently... family members are often surprised that their children or siblings hold a certain viewpoint.
Clarify for example: “When you say X, is this what you mean?”
3. Hear the point of view of everyone involved – the greatest human need is to feel heard and understood... not agreed with but understood. Start with processing rather than problem-solving.
Clarify for example: “What are everyone’s perspectives, feelings, and ideas?”
4. Problem solve – If the other steps have been done well, the conversation becomes much easier. The solutions may automatically emerge through the other steps.

Things to remember:

- If you are not comfortable leading the meeting, consider a facilitator
- You can control how much information you want to share and what you would like to discuss
- Everyone is entitled to their opinion
- Everyone should have an opportunity to speak
- Be patient as everyone will or could react differently
- Don’t be judgemental
- You may not complete this in one sitting, it may require more than one conversation or family meeting
- You may want to have an open conversation with everyone present or elect to have one on one conversations

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Things to consider and discuss:

While this list does not cover every aspect of your estate plan conversation there are enough talking points here to get you started:

- Who you have appointed as the executor(s) of your will? Why you selected them? Discuss their responsibilities.
- How you will distribute your worldly possessions and personal effects?
- What are the provisions you have made to pass on digital or intangible assets such as online bank accounts, loyalty program points - Airmiles™, virtual money - PayPal™, digital photos and videos, online photo storage - Flickr™, etc.
- How you have decided to look after the wellbeing and care of disabled children?
- What provisions you have made for continued care of older relatives or friends if you are no longer able to look after them.
- How you want your pets cared for in the event of your death or incapacity?
- The trusts you have or will establish and their conditions.
- What are your plans for the succession of your business?
- Who have you elected as your power of attorney for property? Have a conversation with them explaining the extent of the permission you are granting them.
- Who have you elected as your power of attorney for personal care? Have a conversation with them and provide clear and detailed instruction on the power of attorney of the type of care you're willing to receive, and where and from whom you're willing to receive it.
- Share your power of attorney decisions with other family members; let them know who is in charge of making your personal care decisions and why you selected them. This avoids misunderstanding and conflict when decisions are made by the power of attorney.
- When you think about the last phase of your life, what's most important to you? How would you like this phase to be?
- What kinds of aggressive treatment would you want (or not want)? Such as the need for resuscitation, breathing machine, feeding tube.

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Step 3: Next Steps after the meeting

The conversation leads to many benefits such as passing on family beliefs and values, helping family members understand how your legacy will live on and reducing the potential for family members misinterpreting your intentions.

Only when the conversations are complete would it then be time to create an estate plan. Estate planning has two important components. The first is providing for the quality of life for the people left behind, and this is done through the will. The other is providing for the quality of your life – both financially and personally, should you become incapacitated, this is done through the creation of powers of attorney.

The legal documents, list of assets and list of personal possessions collected in steps 1 and 2 can now be reviewed based on your essential estate planning conversations to determine their alignment to your goals.

It is important to make the most of what you have achieved over your lifetime so that your heirs and beneficiaries receive the most that they are allowed by law, with the least amount of conflict, delay, fees, and taxes.

Contact your BMO financial professional to guide you through the estate planning process. Your BMO financial professional can identify opportunities to make the most of your estate plan (i.e. avoid unnecessary delays, fees, and taxes) and also make the necessary referrals to the appropriate tax and legal experts.

This guide is provided by the BMO Wealth Institute to help families with essential estate planning conversations. Please refer to the Wealth Institute Report: *What are you leaving behind: Family conflict or a memorable legacy?* for additional information.