A Will is one of the most important legal documents that you will sign in your lifetime. We know that you want to get it right.

DIY Wills can cost you less than $150. However, the saying ‘you get what you pay for’ comes to mind!

We understand that you want to have your wishes heard and followed, and for things to be as easy as possible for your loved ones when you pass away. If you prepare a DIY Will it is possible that neither of these objectives will be achieved.

DIY Wills attempt to make the preparation of a Will a standardised procedure. However, people often have complicated personal and financial lives, and most of us need tailored advice to suit our individual family circumstances.

Wills prepared without the assistance of an estate planning lawyer, are often riddled with mistakes which can lead to unexpected and expensive consequences. While the lower cost may initially seem attractive, any perceived savings may later be eroded by legal fees taken from your estate after death.

Here are some of the common problems we see with DIY Wills:

1. **NON-COMPLIANCE WITH LEGAL REQUIREMENTS**

A Will must comply with certain legal requirements to be valid. Small things such as failing to appoint an Executor, or not properly witnessing the Will, or having staples in the Will, can cause your Will to be invalidated.

A Willmaker is also required to have Testamentary capacity at the date of signing their Will, which is assessed by the lawyer. The absence of this ‘capacity’ check could lead to family disputes down the track and raise questions about the validity of the Will.

2. **ASSET OWNERSHIP**

Your Will can only dispose of assets that you own at the time of your death. Many people are unaware of, or do not consider, the terms of their asset ownership and ultimately attempt to gift assets that cannot be disposed of by their Will.

Examples include, the family home which is owned jointly with another person (e.g. a spouse) or an asset owned by a Family Trust or Company.
Additionally, because superannuation does not automatically form part of your estate, without a valid binding death benefit nomination there is no guarantee that your superannuation will be paid as you intend. Many online platforms produce a ‘one size fits all’ Will that does not address superannuation or assets owned by Family Trusts or Companies.

3. CHANGING CIRCUMSTANCES

DIY Wills often do not account for your changing circumstances. For example, if your Will leaves a property to a beneficiary and that property is sold prior to your death, the beneficiary you intended to benefit will not receive that specific gift and may receive nothing at all.

4. FAMILY PROVISION CLAIMS

Wills prepared without the assistance of an estate planning lawyer often do not take into account potential claims that may be made against your estate. By not obtaining advice, you will not be aware how future claims on your estate could be avoided or mitigated.

5. LOANS TO FAMILY MEMBERS

Parents often make undocumented loans to their children and these need to be addressed in their Will to ensure that all the children are treated ‘equally’ in the event of death, if that is your intention.

OUR VIEW

DIY Wills are often seen as a cheaper option to working with an estate planning lawyer. This is not always the case. Poorly drafted Wills regularly cause issues down the track leading to disputes between loved ones and potentially eroding any perceived costs savings.

An experienced estate planning lawyer will work with you to ensure that your Will is prepared in accordance with the legal requirements and that your wishes are followed.

Invest wisely and get the advice you need to protect yourself and your family.

CONTACT US

We can help you navigate the complexities of estate planning and estate administration. We invite you to get in touch.

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