

Common Mistakes When Making a Will



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1. Failing to state personal details accurately

Make sure you state your full name and address. If you are known by more than one name, then you should include the other names to avoid confusion. The beneficiaries should also have their full legal names stated in your will.



2. Appointing an executor who isn't willing to act

Unless you have appointed a public trustee organisation or a licensed trustee company, it is recommended that there be a substitute executor in case the individual you have appointed or both of the co-executors named, are unable or unwilling to act.



3. Not communicating with your children's guardian about your intent and wishes

It is very important to discuss your intentions, obtain consent and discuss your expectations with the prospective guardian(s). During this discussion, it's also a good idea to share any wishes that you may have prepared. Your wishes to the guardian are generally not reflected in the will, but can be documented separately.



4. Not including a clause about your residuary estate

A residuary estate clause is an important clause in the will which deals with the balance of your estate. Even if you have made specific gifts of items or money in your will, the remainder of your assets that have not been specifically mentioned or named, will form what is known as your residuary estate. You must still include your wishes about what you want to be done with your residuary estate and how you wish for it to be distributed.

If you wish to leave your residuary estate to multiple beneficiaries, you should specify the portion they are each to receive. For example, two siblings may each be allocated 50% of the residuary estate of their parent.



5. Forgetting assets or not clarifying ownership

If you own significant assets, such as a house, property or car – correctly identify whether you own this asset independently or with someone else, (for example: a spouse or business partner).

It's a good idea to list your assets, perhaps in categories. It might also be helpful for you to jot down an approximate value of each asset and whether there is a mortgage or loan. Use our free template that will facilitate listing your assets.



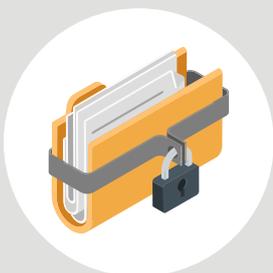
6. Choosing a simple will when you have complex circumstances

Simple wills such as will kits and online wills are good for those with straightforward circumstances. Your personal circumstances may turn out to be more complicated than you first thought, or may change and become more complicated over time. If you have complicated circumstances, State Trustees recommends you seek the advice of a will writing expert.



7. Not dating the will or having the signature of two witnesses

You must sign and date the will in the presence of two witnesses for your will to be legally valid. The witnesses must be 18 years or older, and must be able to see you sign the will; however, they should not be a beneficiary or a spouse or domestic partner of a beneficiary. If these people act as a witness, they or their spouse or domestic partner may be disqualified from receiving a benefit under your will due to the applicable laws in certain parts of Australia.



8. Not storing your will

After you have signed your will, keep it in a safe place and tell your family and the executor named in the will where to find it. It is important you do not staple, pin, affix or attach any additional items (for example personal notes, letters or documents) to your will. The reason is that it may give the impression there was another document to be included with or read in conjunction with the will, and it may make it more difficult for the will to be accepted by the court. It is also a good idea to obtain a certified copy of your will and store it separately to the original.

For residents of Victoria, you may choose to store your will at the State Trustees Victorian Will Bank. For details visit:

www.statetrustees.com.au/wills/register-store-my-will-safely