

TEN COMMON OBJECTIONS AND HOW TO OVERCOME THEM

Estate Planning

10. I'VE GIVEN MY RELATIVES INSTRUCTIONS ON WHAT I WANT DONE

Such instructions aren't binding and still result in delay and a cost blow-out for the administration of your affairs. Relatives can't legally comply with your wishes without getting a grant of administration, so this is inadequate if your estate involves money in a bank account, an interest in land, shares in public companies, proceeds from insurance policies, or even superannuation. Verbal directions about the future care of children are ineffective and are only binding if they form part of a Will. Accordingly, verbal directions are a wholly inadequate manner in which to deal with your estate.

9. I HAVE A WILL, I DID IT WHEN I FIRST GOT MARRIED

All Wills need to be reviewed. Circumstances change, children are born, assets are bought and sold, relationships change. An old Will may be perfectly valid, but, for example your parents may not now be willing and able to be the executors of your estate when you die. Does your Will adequately provided for your children who weren't born when you made the Will? Wills should be reviewed at least every three (3) years to determine their validity and applicability. Old Wills may be as effective as having no Will at all, or worse, could result in your estate **not** being dealt with in accordance with your intentions, or result in the Will being contested by disappointed beneficiaries.

8. I HAVE NO FAMILY SO IT DOESN'T MATTER IF I HAVE NO WILL

Regardless of whether you have any immediate family, on your death your affairs must be dealt with by someone and your assets will be disposed of to someone. Under the *Succession Act* the end recipient in the event that there is no family or next of kin will be a payment to the Government. Does anyone really want their assets to go to the Government? A donation to a charity would be of more benefit than a donation to consolidated revenue. Further, a Will will make the process easier for whoever is left to pick up the pieces after you have gone.

7. MY SPOUSE GETS EVERYTHING ANYWAY

This line of thought presupposes that you will predecease your spouse. What happens if your spouse dies first or at the same time as you? In that circumstance, what happens to your children? Who will know your wishes regarding the upbringing and welfare of your children? What happens to your superannuation? Assets which aren't jointly owned will not necessarily go to your spouse as the *Succession Act* determines who gets your assets on your death. If you have children then your spouse is not entitled to all of your assets. Predicting that all of your assets will go to your spouse may be foolhardy and professional advice should definitely be sought.

6. DRAWING A WILL IS TOO EXPENSIVE

The price for a Will doesn't vary due to the size of your estate. Wills become more expensive with the complexity of a person's affairs. Further, the cost of doing a Will is generally far cheaper than an application for a grant of administration following your death. The cost of a Will is a small price to pay as an insurance policy to ensure that your personal effects go to those persons who you want to receive them, and to ensure that your estate is administered in an efficient and timely manner without financial burden to your family.

5. MY ESTATE IS TOO SMALL TO JUSTIFY THE COST OF A WILL

This concern is closely linked to concerns regarding costs. The size of an estate is irrelevant. The cost of getting a grant of administration can run into thousands of dollars. If an estate is small and involves only a small amount of money in a bank account the cost of getting a grant of administration may be greater than the balance of the bank account. A Will will generally alleviate the need to apply for a grant of administration for small estates. Where the estate is so small as to be less than the cost involved in obtaining a grant of administration, then your family may be forced to pay these unnecessary costs. No estate is too small to not justify the preparation of a Will.

4. I DON'T WANT TO THINK ABOUT THE POSSIBILITY OF MY MORTALITY. I AM YOUNG AND IT IS YEARS AWAY

Unfortunately death comes to us all and there is no way of knowing when our time has come. Like anything in life, successful outcomes require thoughtful planning and the administration of your estate following your death is no different. An estate plan is about creating a financial plan for your life, and following your death the distribution of your estate in accordance with your wishes in a timely and cost effective manner. Whilst everyone has different attitudes towards death, preparation of an estate plan need not focus on your death but rather what benefits you can provide for your friends and family when the inevitable happens.

3. I HAVE NEVER THOUGHT ABOUT IT

This attitude is similar to the person who thinks they are invincible or refuses to contemplate their demise. You are probably too busy living to have thought about death. We all need to take the time to remind ourselves that death is a part of the cycle of life and there are good reasons to plan and make provision for our death and how we can make that process easier on those we leave behind.

2. EMOTIONAL ISSUES THAT YOU DON'T WANT TO DEAL WITH

Estate planning inevitably leads to the consideration of personal relationships. A Will can constitute a publication of our feelings towards those that we know. This can evoke negative emotions such as anger, guilt, remorse, or regret. Unresolved issues between family members and spouses can be difficult to broach and lawyers and financial planners are **not** properly qualified to provide answers to these issues. However, a lawyer or a financial planner who has personal knowledge of your circumstances and the issues involved may be able to provide objective views on these issues. It may be an appropriate time to speak to a life coach or counsellor to bring closure of these issues. Also be mindful that a Will is not etched in stone, and as circumstances change, and relationships and issues change, amendments to your Will should, and can, be undertaken.

1. MY AFFAIRS ARE TOO COMPLEX; OR IT'S JUST TOO HARD

The problem isn't that your affairs are too complex but rather the delivery of a solution seems too difficult. What you need are answers from someone who can deliver an outcome and walk you through the process. Taking comfort in the knowledge that you are dealing with a professional who can provide you with the answers that you are looking for and show you the simplicity of the process should be adequate encouragement for you to move forward with your estate planning and the preparation of your Will.