

Media Backgrounder  
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**Don't have a Will because you don't think you need one, think again  
These real life stories tell what has happened in Australia**

If you don't think you need a Will or you think you can do-it-yourself, think again. The following real life stories tell what can go wrong if you don't have a Will or try writing a Will yourself:

**Without a Will, your wishes may not be legally recognised**

Steven and his girlfriend Kelly were 23 years old, and had been living together for six months when Steve died suddenly without a Will. The court decided that Kelly was his legal de facto spouse, and she received his entire, substantial estate. His parents received nothing.

**DIY Wills can be dangerous**

A husband filled in a 'do-it-yourself' Will form – intending to leave the whole estate to his wife. He inserted his wife's name in the section of the form appointing her the executor, but did not put her name in the section for nominating a beneficiary – in effect, he left the whole estate to nobody.

**It can be too little, too late**

Gwen suddenly suffered a heart attack and went to ask her neighbour to call an ambulance. While waiting, Gwen said she wanted to leave her apartment to 'Helen Hughes', so the neighbour scribbled the details on the nearest piece of paper – a post-it note. Sadly, Gwen's heart attack proved fatal and the court held the note was not a valid Will and so the estate was distributed with no regard for Gwen's wishes.

**Don't forget to update your Will**

Mrs K moved to Australia from Europe. Her husband was executor and sole beneficiary in her Will but after he died, she failed to update her Will and when she died, her estate was intestate. Though she had a good relationship with her step-daughter, her estate was then put toward covering the expense of searching for relatives in Europe – people she barely knew.

**Once you turn 18, you should have a legal Will**

Belinda was 21 years old with no Will when she was killed in a motor vehicle accident during the course of her employment. There was a \$200,000 accident cover. The estate passed to mother and father equally on intestacy, but the father had deserted her family weeks before she was born. Although they had never met, Belinda's father received \$100,000.

## **And then there is the story of Fred**

Fred, aged in his 70s, had never made a Will. He purchased a Will kit from the post office. His only asset was his house. His good friends Sam and Sally had cared for him for many years as his health declined, and he decided he wanted to leave everything to them. In his Will he said "I give my house to Sam and Sally Brown". A few years after making his Will, Fred sold his house and began living with Sam and Sally. He deposited the proceeds of sale of his house into his bank account. He died several weeks later, and had not updated his Will. Sally and Sam found the Will, which said they were to receive Fred's house. However, Fred no longer owned the house when he died. As Fred did not complete the Will properly, he did not leave any of his assets to Sally or Sam, or indeed to anyone.

The result was that Fred's closest living relatives, who happened to be nieces and nephews he had not seen for years, were entitled to the whole of Fred's estate. If Fred's Will had been professionally drafted, this kind of problem could have been very easily avoided.

The law relating to Wills is complex. There are many requirements and rules that the average person will not be familiar with, and the language a person may use in everyday life will not always convey what is intended in a Will. It is therefore essential that professional advice be obtained to ensure that your final wishes are clear, to ensure that the rules and requirements relating to Wills are adhered to, and to ensure that unnecessary heartache for your family and friends is avoided. NSW Trustee & Guardian encourages all of our clients to review personal circumstance in relation to their Will to ensure their Will instructions are up to date and reflects their current wishes.

For more information about how to write a Will visit the Make Your Will website [www.makeyourwill.com.au](http://www.makeyourwill.com.au) or telephone 1300 14 24 34 to talk to an expert or make an appointment at one of the 18 NSW Trustee & Guardian branches around the State. There is no charge to make or update your Will when you appoint NSW Trustee & Guardian as executor. Charges apply on estate administration only.

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### **About NSW Trustee & Guardian**

NSW Trustee & Guardian was formed by a merger of Public Trustee NSW and Office of the Protective Commissioner and Public Guardian. With almost 100 years experience in Will making, estate planning, trustee and executor services for the people of NSW, NSW Trustee & Guardian is the State's leading Will maker and currently has over \$4 billion in assets under management.

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