

## Will Kits – Value for money or false economy?

There are many versions of the fill-in-the-blanks, one-size-fits-all Will kits out there. They can be purchased at the local newsagents, or even obtained for free from a charity (in the hope that you'll make a donation in your Will) or as part of an insurance package. There are generally competent instructions included on how to sign the document, but little in the way of guidance as to how best to complete it. While it is not necessary to use legal jargon in a Will for it to be valid and properly dispose of an estate, the sometimes unwitting use of legally significant phrases or the use of words which have a hidden legal meaning can cause significant problems in dealing with an estate after the willmaker has died.

For example, in one probate matter in which we were involved, the willmaker had written "To my wife, then to my children" in the Will. While it was believed by all involved that what he had meant was that his estate should pass to his wife if she survived him but if not, then to his children, the phrase used could actually restrict the benefit received by the wife to only the **income** from the investment of his assets and she would not be entitled to the **capital**.

Other problems commonly seen relate to the way in which the Will is signed. A valid Will must comply with the requirements of the Wills Act 1997. If there is any doubt as to whether the requirements were met at the time of signing, the Probate Registrar can require additional evidence to be lodged regarding the circumstances in which the Will was signed. This can mean having to track down the witnesses to the Will and asking them to recall events which could be decades ago.

Legendary motor racing champion Peter Brock used a Will Kit on two occasions. The resulting legal case which was necessary to determine which, if either, of those two Wills were legally valid and how his estate was to be distributed, involved three legal firms and five barristers. The end result of that lengthy and extremely costly litigation was that his estate was to be distributed as if he had not made a Will.

Every person's estate is different and their circumstances are different too. Will Kits cannot advise a person on what actually forms part of their estate, or who might ultimately make a claim against the estate. Potentially significant tax advantages can be lost forever. Regardless of how "simple" a person's estate or wishes may be proper advice is always money well spent.

In our experience, more often than not, home-made Will kits throw up issues which result in far greater costs to the estate than the cost of a Will competently prepared by a Solicitor and consequently very much a false economy.