



Choosing Guardians: safeguarding your children's future

If you have children under the age of 18, then one of the most important reasons for making a Will is to appoint guardians for your children.

The role of a Guardian

Being guardian for a child means taking on 'parental responsibility'. This is legal responsibility for your child and includes everyday parenting decisions, in addition to choices about medical treatment, health, education, and where your child should live.

If you have specific beliefs that you would want potential guardians to know about, you should details these

in a Letter of Wishes accompanying your Will.

Although it is hoped by all that this is a role that is never needed, guardianship appointments begin immediately on death. This is providing there is no surviving person with parental responsibility for your child.

Suitability

Guardians must be over 18, and can be family members or friends. You should consider their age, health, lifestyle, finances, and their relationship with your child.

If choosing your parents or older relatives and you have very young children, think about whether they

would be able to cope with the practical demands of bringing up your children until they reach 18.

Ideally the guardians you appoint should be living in the UK. If your guardians live abroad, you need to be aware that being appointed as guardian for your child will not give them permission to reside in the UK, nor will your child necessarily be able to live abroad.

How to choose a Guardian

Single / Joint Guardianship: Ideally you should appoint a single person or cohabiting couple in an established relationship (married or unmarried) as your 'Primary Guardians' - the people your children would live with, and who would have parental responsibility, eg your parents or a sibling.

You can then appoint 'Supporting Guardians', to assist your primary guardians eg taking your children during school holidays etc. These might be additional siblings or close friends. Appointing them ensures that should your primary guardians die before your children reach 18 and have not appointed guardians under their own Will, or are unable or unwilling to act, your supporting guardians will automatically have the legal right to look after your children.

It is not recommended to make a joint appointment of a non-cohabiting couple (eg your siblings) as primary guardians, due to the practicalities of sharing parental responsibility and the conflicts that can arise.

It is important to review your Will regularly in relation to your guardianship appointments, in case there are changes in their



circumstances. It is also important to talk to your proposed guardians first before appointing them in your Will.

Financial Issues: Making sure that your children are provided for financially is important. Arranging life insurance and including Trust provisions in your Will are the most practical ways of helping provide for them in the most practical ways, and also giving you peace of mind.

You should appoint between 2-4 Trustees in your Will to manage your children's inheritance and keep it safe. Normally the Trustees would be the same people as you appoint as the Executors of your Will. Your Trustees can use the Trust funds to provide for your children's education, maintenance and general benefit, and advance money to the guardians as they see fit.

If you include your guardians among your Trustees, you should have at least one strong independent Trustee to act with them, so the guardians are not compromised by a possible conflict of interest – as they may have to make decisions such as the purchase of a new car, and the Trustees need to be able to weigh up how much the guardian should contribute, compared to how much the children's Trust Fund should pay etc.

Letter of Wishes: It is very important to leave robust guidance for your Guardians and Trustees, by having an Expression of Wishes Letter drafted to accompany your Will. Your children are arguably your most important asset – or at least your most important consideration, so leaving guidance for both your Guardians and



Trustees as to how you would want them to be raised and provided for, will be very useful for them, and give you substantial peace of mind should the very worst thing happen to you – that you die before your children reach 18.

This guidance might include such things as:

- Children having regular contact with both sides of their family.
- Specifying your wish for them to have a private education or go to a Catholic school.
- Where they should spend school holidays.
- Receiving pocket money and having their own bank account to get used to managing their own money when relevant.
- What they should receive on major birthdays.
- Receiving driving lessons and buying a small safe secondhand car on passing their test.
- Encouraging them to get a weekend or holiday job.
- Providing funds for a gap-year and paying for further education.

We help our clients draft robust Expression of Wishes Letters to assist their Executors and Guardians, at the time of writing their Wills, and provide the finalised template for them to keep updated themselves as their children age.

Next steps

To ensure you make the right provision for your children, and for their guardians, please contact Rachael at **Heir Tight Wills & Estate Planning.**

