

Have you appointed a guardian?



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What is a Guardian?

A Guardian is the person who would look after your child/children should you die before they turn 18.

A Guardian is the person who your children would usually live with and who makes the decisions about their upbringing. This could include what schools they go to, what religion they are brought up following, and also decisions about their health.



Can anyone be a Guardian?

There are only two restrictions on who can be a Guardian – they must be over 18 years old and mentally capable of acting as a Guardian.

Whilst many people choose family members to be Guardians there is no formal requirement to do this. A Guardian can be a good friend.

The main thing to consider when choosing a Guardian is who can provide your children with a stable upbringing and who would raise your children in the way you would want them to?

What should you consider?

- Who has a good strong relationship with the children already?
- Who is able to provide a stable loving environment?
- Who is an appropriate age to be a Guardian?
- Are there any family conflicts that should be taken into account?
- Where do any potential Guardians live? – Are there near your Child's school family and friends?
- Does your chosen Guardian have space in their home for your child?
- Would your Guardians ensure that other family members were still involved in the upbringing of your children (if this is what you wanted)?
- Do your Guardians have similar views to you to bring your children up in a way that you would have wanted to?
- Does your chosen Guardian have any health issues of their own that you should consider?
- Is your Guardian happy to be named as a Guardian?
- How many Guardians should you choose?



Can you choose more than one Guardian?

Often people choose to name a couple as Guardians of their child. Whilst there is nothing wrong with this you need to ask yourself whether you are happy with both parties being Guardians if the couple split up.

Some people choose to name their parents as Guardians. Whilst this is a common choice, you need to consider what happens if something happens to them before you. You also need to think about whether they can physically cope with the demands of raising your child.

Some people feel that they wish to include both sets of parents so all the children's grandparents are named as Guardians. If this is the case you need to carefully consider who the children would actually live with and what would happen if there was a disagreement.

It is often a good idea to appoint a back-up Guardian incase your first choice cannot act or dies before you.

Is my decision final?

Whilst you choose who you want to be Guardian this does not necessarily mean that they will become your child's Guardian. Your chosen Guardian may refuse to act, or may have a change in circumstances which means that they can no longer act when the time comes.

It may be that someone objects to your chosen Guardian and chooses to take the matter to Court. If this happened it would be up to a Judge to decide what they think is best for your child. For this reason it is really important to consider who is best placed to be a Guardian, to discuss it with them, and also to discuss it with anyone else in your family who may have an interest in your child's upbringing.

Some people choose to leave a letter explaining their choice of Guardian to ensure that everyone knows the reasons behind the decision and to ensure that there is no ill feeling.



Do you need to appoint a Guardian?

The first thing to consider is whether you have Parental Responsibility for your children. This means that you have various rights and responsibilities in relation to them.

All mothers automatically have Parental responsibility for their children.

A father will automatically have Parental Responsibility if he is named on the birth certificate (for births since 1 December 2003), if he jointly registered the birth with the mother or if he was married to the mother at the date of birth. A father can also acquire Parental Responsibility if he marries the child's mother, has a formal Parental Responsibility Agreement with the mother, or if the Court makes an order granting this.

In certain circumstances Parental Responsibility may also be granted to other people, for example to same sex parents or step parents.

If you do have Parental Responsibility then it is essential to ensure that you appoint a Guardian to look after your children in the event of your death, especially if you are the only person with Parental Responsibility.

If you do not have Parental Responsibility, and would like more information about this our family team would be more than happy to assist you.

How do you appoint a Guardian?

You can appoint a Guardian by making a Will.

A Will allows you to make provision for what happens to your assets in the event of your death. If you want to leave your estate to your children then you can put provisions in your Will for what age you would want them to be when they inherit, and who would look after any assets in the meantime.

A Will is an essential document for anyone with children. If you have already made a Will you may wish to review it to ensure that it reflects your wishes and is up to date.

For help and advice about making a Will and the importance of appointing a guardian please contact us.

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