



Appointing a Guardian

With George and Amal Clooney just one high profile couple expecting to hear the pitter patter of tiny feet this month, as a successful lawyer Amal will be all too aware of the importance of planning for their child's future.

A significant factor that should not be overlooked is the appointment of a guardian in a Will so if anything unfortunate should happen, the child would hopefully be cared for by someone that the parents trust and believe can meet the child's needs.

Gordon Brown Law Firm LLP's family and matrimonial partner, Simon Dakers, explains the process of appointing a guardian and why it is so important to do so, whether it by Deed or by Will.

Why do I need to appoint a guardian for my child?

The birth of a child often prompts parents to make a Will to ensure that, in the event of something unfortunate happening to them, their child will benefit from their estate.

While ensuring that your child will be financially secure it is also extremely important to consider who you would want to appoint as their legal guardian in the event that there was no parent alive who could assume responsibility for them before they reach the age of 18 years.

If the worst does happen and there is no living parent, and no direction within your Will, then it could fall to the Family Court to decide who would care for your child.

This process can take months, and will not necessarily take into account your wishes and feelings if they have not been expressed, and is easily avoidable by making due consideration when preparing your Will.

What responsibilities will my appointed guardian have?

Appointing a guardian for your child in your Will means that you are effectively granting that person the same parental rights as you had for your child. If something were to happen to you this person can make decisions for your child as though they were the child's natural parent subject to no other person holding parental responsibility. These decisions can include where they go to school, where they live, what medical treatment they receive and what social activities they take part in.

A letter of wishes can be prepared to accompany the Will to give guidance to your chosen guardian on how you would like your child to be raised in line with your own views and beliefs.

A guardian does not have an obligation to support a child using their own finances which is something that needs to be considered when choosing them. In your letter of wishes or your Will you could advise how you wish the money from your estate to be used for your child.

If your child's appointed guardian is the same person chosen to look after the child's inheritance in the Will (the trustee) then this allows them immediate access to funds. It is worth noting that the trustee would only be able to use funds for the benefit of the child and not themselves.

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How do I choose a guardian for my child?

Choosing a guardian for your child can be an extremely difficult decision and one that shouldn't be taken lightly. There are several considerations that need to be made when you make the decision.

Firstly, consider your child's feelings towards the person you are appointing as their guardian and the relationship that they have. You also need to consider whether your chosen guardian shares the same parenting style, values and beliefs as you. Finally, you need to be sure that your guardian has the time and energy to look after your child should the worst come to the worst.

Once a decision is made it is important to notify your intended guardian of their appointment and ensure that they are willing to act in this capacity.

While you might not have the A-list celebrities on your list that George and Amal Clooney do, it is still important that time and care is taken when choosing a guardian for your child. Choosing the right person will give you peace of mind that should something happen to you your child will be in good hands.

If you would like more advice on making a Will or any family matters, call our family team on 0191 388 1778.