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The Wills Series

APPOINTING A GUARDIAN IN YOUR WILL

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If you have children under the age of 18, you should consider appointing a guardian for them in your Will. A guardian is the person or persons whom you would like to care for, and make decisions on behalf of, your children until they reach the age of 18.

If you are a couple, if one of you were to pass away, the survivor is likely to continue to care for the children on their own. It is, however, important to still include a guardianship provision to state who will step in and care for your children if you were to both pass away.

Why should I appoint a Guardian in my Will?
By expressly appointing a guardian in your Will, you can ensure that your friends and family are aware of your wishes relating to your children. This can reduce the chances of a dispute arising over who should care for your children after you have passed away.

It also allows you to consider who would be the best person to look after your children to ensure that they receive the care that you would want them to have.

"Clear and straightforward service. Maxine's fees were clearly stated and I felt able to raise all relevant issues"
P R, Corsham

Who should I appoint as Guardian?
Who to appoint as Guardian is a personal decision to be made by you. The only legal requirement is that a guardian must be over the age of 18. There is no requirement for a family member to be appointed as guardian, although this is often the case.

In making your decision, it is important to consider who will act in the best interests of your children and raise them in accordance with your wishes. Other factors you may wish to consider are the faith, financial standing and character of your guardians.

You should also speak to your chosen Guardian before signing your Will to ensure that they are willing and able to take on the responsibility should the need arise.

Can the appointment be contested?
If you expressly appoint a guardian in your Will, your executors, friends and family members will need to follow your wishes and allow the appointed guardian to take custody of your children and care for them.

If somebody wishes to contest the appointment, they will need to do so through the Courts.

Can my money be used to assist my Guardian?
Agreeing to act as a Guardian is not without its financial pressures. If you leave your estate to your children, your executors and trustees will safeguard the estate until the children reach the age of 18 (or older if specified in your Will). Your Guardian can request funds from the trustees for the maintenance and upkeep of your children.

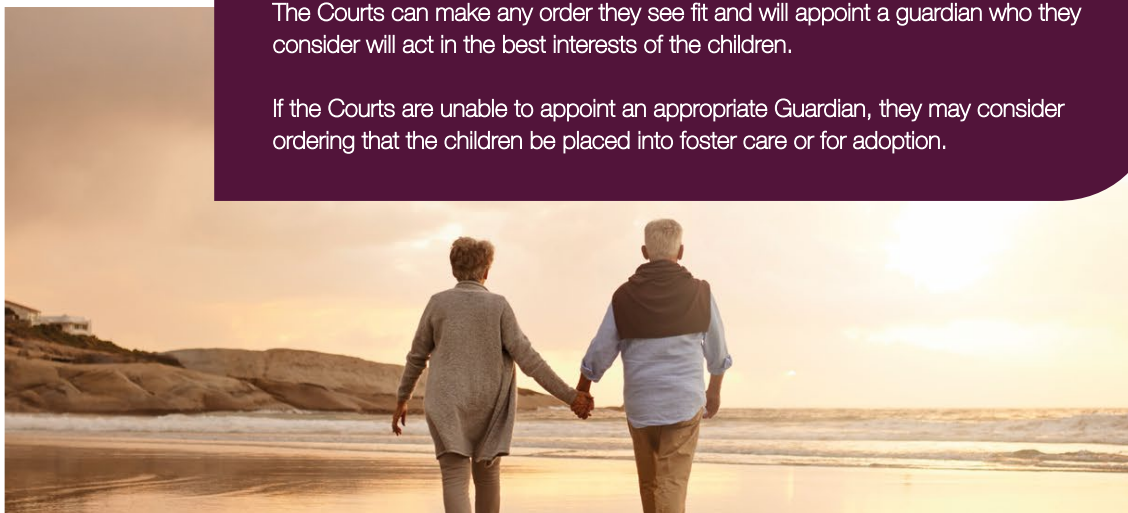
This means that your estate can fund items such as clothing, education and holidays if your guardian requests it and your trustees consider the request to be reasonable.

Your trustees could also take other steps such as purchasing a property and allowing the guardian to reside there with your children.

What happens if I don't appoint a guardian?
If you do not appoint a Guardian in your Will, the Courts are likely to decide who should have custody and care of your children.

The Courts can make any order they see fit and will appoint a guardian who they consider will act in the best interests of the children.

If the Courts are unable to appoint an appropriate Guardian, they may consider ordering that the children be placed into foster care or for adoption.



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Mrs W, Chippenham

"We liked Phillip's quiet efficiency, his understanding and knowledge of the subject"
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Get in touch today.

ARE YOU AWARE OF THE INTESTACY RULES?

Speak to your lawyer for more information.

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