



A Parent's Guide to Wills

Introduction:

With parenthood comes increasing responsibilities, a focus on building a safe world for your child to develop and prosper and increasing worries about safeguarding their future.

It's easy to get caught up concentrating on what's going on right now. But it's also essential to look ahead and plan for the future and for all eventualities.

Making a Will is an important part of that planning. This Guide aims to point the way for parents and highlight important elements of Will making to provide greater understanding and some food for thought.

Choosing Executors and Trustees:

Firstly, what do Executors and Trustees do? And what's the difference between one and the other?

An Executor's role lasts only a short period, they deal with the paperwork after your death. You can appoint as many Executors as you like but only four can actually carry out the job. It's usual to have two Executors and they need to be people who are organised, trustworthy and good at handling money.

In the first instance this will usually be your spouse or partner but then you need to consider who should be a substitute Executor if your first choice dies before you.

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If you don't have many close relatives that are suitable then you can appoint a solicitor's firm alongside a friend or family member. That way no matter what the disaster there will definitely be someone experienced to administer your estate and financial protect your children.

The Executors will apply for probate, collect in your assets and distribute the estate. This may involve paying out small gifts and then they will put the remaining estate into Trust for your children and hand over control to your Trustees.

Trustees need similar qualities to the Executors and for that reason they are often the same people. But bear in mind that they don't have to be. A trustee's role lasts a lot longer – for the duration of the trust and it may not be so appropriate to have that firm of solicitors running the trust and continuing to charge. Or if there are significant assets in the trust then it might be entirely appropriate for a solicitor, financial advisor or accountant to be one of the trustees. Just as Executors must ensure that all taxes are paid and that accounts are produced so must Trustees.

The Trustees are responsible for investing the trust money. This can also include maintaining your property for the children to live in or renting out the property.

Trustees must regularly check the financial needs of the beneficiaries and decide whether the beneficiaries (or their guardians) need some income or capital. When the beneficiaries are old enough to inherit then the Trustees hand over control of the beneficiary's share of their inheritance to them.

Mostly choosing your Executors and Trustees will be an easy and obvious choice – usually a brother or sister or other close family member is already lined up to step as loco parentis if anything should happen to you and your partner.

Where the decision is not so straightforward then often a quick chat with one of our Wills and Probate solicitors will help identify who to pick.

Guardians

In the event of your (and your spouse/partner's) death then your children will live with their Guardians until they are 18. Choose someone your children know and who has experience of bringing up children. This will frequently be your own parents or again, a brother or sister.

The Guardian can be an Executor and Trustee and it's often sensible that they are. Then the Guardian will not only be responsible for your children's welfare and upbringing but also their finances.

The Trustees (whether or not they are also Guardians) can provide the Guardian with money for the children's welfare, maintenance and education. So there is no need to leave a large sum of money to the Guardian, they will have access to the Trust fund while the children are living with them.

At what age should your children inherit?

18? 21? 25? These are the frequent ages chosen by parents and in most cases you cannot be sure how mature and financially aware your children will be in the future. So most of us err on the side of caution and choose 21 or 25.

For most types of Will trusts your children will as of right receive their share of trust income when they reach 18 and it is then their entitlement to the capital which is put off until they are 21 or 25.

Children from first relationships and new partners

It can be difficult to balance protecting your children's future and looking after your spouse or partner at the same time. This is particularly so when you have children from a previous relationship.

If you own your home in your name only then in your Will you can provide your partner with a right to live in the property but direct that it will ultimately pass to

your children. In this way you provide a roof for your partner but still preserve your children's inheritance.

If you own the house jointly with your partner then the way it is owned can be changed to separate and equal shares. You can then make provision in your Will for your partner to have a right to stay in the house but leave your half share to your children.

Conclusion

As with any guide, the situations and issues dealt with here are the ones most commonly encountered. There are bound to be circumstances which do not fit this general guidance. There's no substitute for a chat with an expert so please contact our specialist solicitors for further information and advice.

This guide contains information on current legal issues applicable at the time of printing. Note there may have been changes subsequently which have not been incorporated in to the material. This guide is intended for information purposes only and its content should not be applied to any particular set of facts or relied upon without legal or other professional advice. For further information on how we can help you please contact:

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