

Appointing Guardians and Parental Responsibility

If you have minor children, that is children under eighteen years of age; you will have to appoint Guardians, something which is governed by the Children Act 1989.

In the normal course of events, provided that a child's mother and father were married to each other or in a civil partnership, even if they are of the same sex, at the time of the child's birth, they shall each have parental responsibility for the child regardless of whether the child was naturally conceived or by assisted conception such as AID.

Where the child's parents were not married to each other at the time of the child's birth, only the mother has parental responsibility, but the father may acquire it either by a court order, by agreement with the mother under, via a residence order, or if the birth was jointly registered with the mother (from 1 December 2003). Legal adoption automatically confers parental responsibility.

If you separated or divorced, you can still appoint guardians but this would only take effect if the child's other natural parent has predeceased you.

The prime consideration for appointing guardians is that they will provide your children with a loving and caring environment. You should however be aware that being a guardian with parental responsibility means that their most important roles are to: -

- provide a home for the child
- protect and maintain the child
- discipline the child
- choose and provide for the child's education
- agree to the child's medical treatment
- name the child and agreeing to any change of name
- look after the child's property

Clearly, having sufficient financial resources to do such may be a problem but in most cases this can be easily solved by talking with your financial adviser, but if you do not have one, we will be happy recommend one to you.

If you don't already have parental responsibility, you can apply to the Court by first completing a Parental Responsibility Agreement Form and then take it your local County or Family Proceedings Court, to be signed and witnessed along with the child's birth certificate and proof of your identity, such as a passport or driving license. You'll then need to send two copies of the completed form to: -

Principal Registry of the Family Division
First Avenue House
42-49 High Holborn
London
WC1V 6NP

If you want parental responsibility but can't agree on arrangements with the mother, you can apply for a court order which at present costs £215 but you may be able to get help with the fee if you're on benefits or a low income. To apply for an Order, you'll first need to read the guidance notes and then complete an Application for an Order.

If you and your partner use a surrogate to have a child, you'll need to apply for a parental order, which transfers legal rights from the birth mother to you and your partner. However, to get a Parental Order, you must be genetically related to a child, i.e. the egg or sperm donor, and in a relationship where you and your partner are either: -

- husband and wife
- civil partners
- living as partners

You and your partner must also:

- have the child living with you
- reside permanently in either the UK, Channel Islands or Isle of Man

If you're single, you can't apply for a Parental Order.

Guardianship and Inheritance Protection

Appointing guardians for your children is, without doubt, one of the most important things that you'll ever do; and, whilst the chances of you ever needing them are pretty small, not only do you want to make sure that your children will be going to a loving caring environment, but also that the guardians will either have enough money to cope with the extra mouths to feed, house, transport and educate or that your children's inheritance will remain intact for when they reach adulthood and not exhausted simply by the costs of bringing them up.

Whilst just how much it costs to bring up a child is always a matter for debate, and largely related to one's own means and expectation, the latest research by insurer LV shows that the cost of raising a child to the age of 21 has soared to £222,458, with parents paying 58% more than a decade ago.

Education and childcare continue to be the biggest expenses; with the cost of education, including uniforms, after school clubs and university costs (private school fees are not included) has now reached £72,832. The report goes on to state that sending a child to private school would add on average £106,428 for a child attending day school (£195,745 if they board) to the overall cost of raising a child. The cost of childcare has also risen, now being £63,738 a year.

Thankfully, the problem of providing for guardians or protecting your children's inheritance is easy to solve; and your financial adviser will be able to help you.

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