

APPOINTMENT OF GUARDIANS

Estate planning is the planning and documentation of your wishes for the distribution of your wealth following death, including assets you own personally as well as assets you control.

Estate planning is a specialist area and it is therefore important you obtain professional legal advice in relation to all areas of your estate plan. However we outline below some of the issues you should consider in the Appointment of Guardians.

A will-maker who has young children should appoint a guardian to take care of such children should the Will-maker die prior to the children attaining their majority.

The appointment of a guardian is usually included in the will as a safeguard in the event that both parents die before the children are 18 years old.

The appointment of a guardian also services to avoid the possibility of disputes between members of the family. The Court has an overriding discretion to appoint or remove a guardian.

It is the guardian's responsibility to make the important "life decisions" on behalf of the children. The guardian must ensure that the children are adequately housed, clothed and educated. The guardianship of minor children is a responsible task. The will-maker should think carefully about the appointment of a guardian and attempt to appoint one or more persons who:

- Are prepared to take on the responsibility.
- Are of a similar age to the will-maker.
- Hold similar social and cultural views to the will-maker.

Conflicts may arise between an executor and a guardian as to how a minor beneficiary's entitlements are to be used for a beneficiary's ongoing maintenance, education advancement or benefit. To avoid such conflicts, a will-maker may consider appointing the same person as executor and guardian. This may, however, give rise to conflict of interest between the duties of an executor and the duties of a guardian.

You have informed us that you wish to have the children's godparents act as guardians for your children. However, we suggest that you discuss this with your legal adviser.