

Parents Need Wills

What happens if someone with young children dies and guardians haven't been appointed?

Surely, if one parent is still alive they simply take over, right? Wrong!

This would seem logical, but the law isn't always logical and only a parent with parental responsibility takes over and **not all parents have this.**

What is Parental Responsibility?

This newsletter isn't going to go into a technical discussion on parental responsibility, except to say that:

- mothers *nearly always* have it,
 - fathers married to their children's mother *usually* have it and
 - other fathers *may or may not* have it
- therefore, it's not surprising that we often come across situations where fathers don't have legal responsibility for their own children.

Whatever the situation, everyone still needs a Will and good advice about who to appoint, but for parents who are not married that advice is even more important.

Parents without parental responsibility cannot appoint guardians and anyone who believes that parents/sisters/brothers etc can just step in if there are no guardians, needs to think again. If there is no one with parental responsibility and guardians haven't been appointed, children become the responsibility of social services acting under the authority of the Courts.

Most parents with young children are aware that appointing guardians is really important, so you would think that this group would be much more likely to make Wills than those without minor children. Sadly the reverse is true. Twice as many people without children at home have made Wills than those with children at home (*source: Finding the*

Will – a report on will-writing behaviour in England and Wales – Steve Brooker NCC 2007).

The report indicated that only 21% of parents with children at home have Wills.

Although it is legally possible to appoint guardians without making a Will, this is very unusual, so a large number of parents are gambling that their youngest child will reach adulthood while there is still one parent alive and that that person has parental responsibility.

If we knew when we were going to die, life would be easier to plan (it might also be quite depressing), but we don't.

We can leave it too late to do a Will, but we can never do it too early.

Wills should of course be kept up to date as circumstances change, but they don't have an expiry date for anyone who makes one too soon.

A Call To Action

Please don't hesitate to contact us if you would like to discuss your situation in more detail and would like to join the campaign to increase the percentage of parents with young children to have robust and up-to-date Wills.

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EstatePlanningMatters