

Guardianship: what happens if I die?

If you share PR with someone else then on your death that person will continue to have PR.

If you are the only person with PR then you should consider appointing a guardian for the child. This can be done in a will or in writing and signed by you. The appointment will only take place on your death and then the person you have appointed will be in the same legal position as parents with parental responsibility. It is best to discuss this with the person you wish to appoint as they will be playing an important role in the child's life should you die.

Only a person with parental responsibility can appoint a guardian.

If more than one person has PR each one can appoint a guardian but this only takes effect on the death of both people with PR. If both parents die, any guardians appointed by either parent must act jointly and decide with whom the child should live. If they cannot agree, the court will decide.

The court can appoint a guardian if there is no surviving parent with parental responsibility. The court can appoint more than one guardian. Any dispute about guardianship would be decided by the court on the basis of what would be in the child's best interests.

Guardianship lasts until a child is 18 but just as with parental responsibility as a child grows older and can start making decisions for themselves the need to exercise responsibility will reduce.

This leaflet was prepared by students working in the Centre for Pro Bono Services and Clinical Education at the York Centre of the College of Law. Any queries may be forwarded to YKAdvice@lawcol.co.uk

The information and law in this leaflet is correct at September 2008. It should not be taken as a substitute for obtaining legal advice.

The College of Law 
of England and Wales