

## Important tips when providing for a child with special needs

It can be heart-breaking even to contemplate what will happen to your children if you die whilst they are young. It can be even harder to decide how best to provide for them, or at what age they should inherit. These decisions are hard even when you expect your children to be responsible for themselves in adulthood.

For parents of children with special needs, these are just the start of their considerations. Some children may never be able to live independently, or manage their own finances. They may need continuing care and help into adulthood.

There are a few alternatives to consider when thinking about your Will:

- Leave the money to your child directly. This is certainly an option, and with full support, when the child reaches maturity they may be able to manage their funds. If it turns out they cannot, then a Deputy may need to be appointed by the Court to do so. This may be necessary anyway, but if the only reason is because of inherited funds, it can be an expensive, and sometimes inflexible option.
- Leave the money to someone else and hope that they will look after your child. This is a simple solution, but dangerous. You are relying on the recipient continuing to do the right thing. But if their circumstances change, or they die, your child might lose all of that benefit.
- Leave the money to your child in trust. You can appoint one or two people to manage the money on behalf of your child.

Depending on how you set up the trust, the trustees can have significant flexibility over how the trust is managed. By keeping the trust fund separate from the child's own money, it is possible that means-tested state benefits can be preserved. There are different sorts of trusts so you will need professional advice.

- Leave your child nothing. Nobody can force you to leave your estate to anyone. But in certain circumstances, moral obligations can be backed by the force of law, and your estate may be forced to provide for your child. This can result in costly litigation.

The question of who should be guardian is difficult, but if you are having trouble considering who to appoint, don't let this stop you from making your Will. The guardian can be appointed at a later date, by a separate document. There are a few things you'll need to consider here too:

- Once you have decided who should be the guardian, you should discuss whether the guardian should also be in control of the funds. This is a tempting and simple option, but it can sometimes place too much responsibility or temptation in the hands of one individual. Having the financial side separate from the personal can seem cumbersome, but may be more secure.
- It is possible that the guardian may have to give up work, move, or undertake many life changes in order to accommodate your child. You need to consider how that person should be compensated, or paid

for doing so. You may want to consider additional insurance or investments. To help fund that care.

- It is always wise to leave a letter of wishes with your Will setting out your views, beliefs, hopes and dreams for your children, to help a guardian make the best decisions.

If you are in doubt, please talk this through with your solicitor.



### Contact Us

For more information, or an initial friendly no-obligation chat, please feel free to contact one of the team.

Disclaimer: This document is written as a general guide only and is not intended to provide legal advice.

© Mayo Wynne Baxter January 2013 all rights reserved.