



Choosing a guardian for your child

Choosing a testamentary guardian is a deeply personal decision. It's one of the most important decisions parents can make to protect their kids' future.



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Of course, no one will be able to replace you. But in the event something was to happen, who would step in to help ensure your child's wellbeing and best interests are taken care of while they grow up?

This booklet focuses on the role and responsibilities of testamentary guardianship, guiding you through what to consider when appointing a guardian for your child in your will.

We encourage you to take your time thinking about this decision. Give your family security and peace of mind by making a considered choice.

Public Trust is here to support you every step of the way.

The three types of guardian

Natural Guardian

Parents are usually the automatic guardians of their child, sharing this role equally while both are alive unless the court decides otherwise. If one parent passes away, the surviving parent automatically continues as the guardian and caregiver unless there's a legal reason stopping this.

Testamentary Guardian

This is someone you name in your will to help make big decisions about your child's life, like their education, religion, health, and where they live. However, they don't automatically have the right to provide day-to-day care for your child and may work with any other guardian. Your will can't decide who has custody of your child—that's something only the court can determine.

Court-Appointed Guardian

If both parents pass away, the Family Court in New Zealand can appoint a guardian for your child. A family member or friend may look to make an application to the court to be appointed into this role. The court-appointed guardian is responsible for the day-to-day care and making big decisions about your child's education, health, and wellbeing. If you've named a testamentary guardian in your will, the court will usually consider this, but they'll still check if that person is suitable. The court always prioritises what's best for your child and often chooses someone close to them, like a family member or someone they already know well.

What role does a testamentary guardian have in your child's life?

When writing your will, you can name a testamentary guardian for a child under 18 years. This is someone chosen to support and guide your child if you were to pass away. They must be at least 20 years old to fulfill this responsibility.

The role of a testamentary guardian is to help ensure your child's overall welfare and be part of important decisions, such as their education and health. It doesn't automatically mean they have custody or are involved in the day-to-day care of your child.

This testamentary guardian might also work with a surviving parent or court-appointed guardian.

In the event both parents sadly pass, the court may give weight to the person you have named as a testamentary guardian in your will when appointing a legal guardian on your behalf.

Naming a guardian in your will can help ensure the child's upbringing is guided by someone you trust. While you can only appoint one guardian, it is a good idea to name a backup in case that person can't take on the role.

Things to think about

When appointing a testamentary guardian for your child, consider if this appointment should take effect only if both parents have passed away or even if the other parent survives you.

Start by making a shortlist of trusted individuals who might be suitable for this important role. Think carefully about their values, age and health, location, and current circumstances.

The most important thing is to select someone who will be the best possible fit for your child's needs, ensuring they will receive the care and support they need when you're no longer around.

Values

Think about the kind of person you want your child to be when they grow up.

- > Who holds the values and qualities to get them there?
- > Are the potential guardian's morals, views, and beliefs aligned to your own?
- > Are things like kindness and generosity a priority for you?

Approach to child health, education and activities

How would they approach things such as child health, education and extra curricular activities?

- > Will they be able to carry on your wishes for your child's education?
- > What extra-curricular activities or hobbies do you prioritise for your child?

Age and health

- > Are they suited to the child's age and stage of development?
- > Are they mature enough to make sound decisions?

Location

Can they be there for your child? Are they close enough to be involved?

Existing circumstances

- > How stable is their situation?
- > Would their lifestyle allow for time and attention for your child?

Once you've decided

Discuss your decision with the person in detail.

Be open about:

- > The financial support that your estate can provide
- > Your expectations of the role.

Review your will every 3-5 years or when changes in your life happen. For example, the birth of another child, or changes in personal relationships.



Ready to take the next step in helping secure your child's future?

Start the process of appointing a testamentary guardian in your will today.

- > Visit publictrust.co.nz to create your will online using our step-by-step process
- > Or book an in-person appointment with one of our experts by calling **0800 371 471** or visiting publictrust.co.nz/locations

