



**ADLV LAW**  
FIERCELY ON YOUR SIDE

**SOLUTION BRIEF**

---

# Guardianship Plan Checklist

**PHONE**

1300 654 590

**EMAIL**

[wehelp@adlvlaw.com.au](mailto:wehelp@adlvlaw.com.au)

**WEB**

[www.adlvlaw.com.au](http://www.adlvlaw.com.au)

# Contents

- 01** Background
- 02** What a Guardianship Plan covers
- 03** Why should you prepare a Guardianship Plan?
- 04** Legal status of your Guardianship Plan
- 05** Detailed contents and style
- 06** Outline of issues to consider

# 01

## Background

---

A Guardianship Plan is a written record that you prepare as parents, detailing what you want for your child if both (or either) parent dies or can no longer perform their role as parent or guardian.

The aim of your Guardianship Plan is to provide a set of useful guidelines or instructions for those persons who you, as the child's parents, choose to appoint as the guardian of your child.

The purpose is to ensure that your chosen guardian(s), who will then have care and responsibility for your child until they reach adulthood, (and who is also likely to have an ongoing special relationship with your child for the rest of their life), will know what you want for your child – if you are not there yourself.

# 02

## What a Guardianship Plan covers

---

Your Guardianship Plan can cover the full range of life and lifestyle issues that you consider to be relevant to the welfare and upbringing of your child.

More common issues include:

- The people who you would like to be involved in your child's life, even through they have not been named as a legal guardian of your child. For example, close family friends and grandparents;
- Their general living environment;
- Their schooling;
- Religious instruction or exposure;
- Aspects of their upbringing generally; and
- Any other matters important to you as a parent.

## 03

# Why should you prepare a Guardianship Plan?

---

Your Will generally only covers the needs of your child from a financial and legal perspective. (That said, your Will may, by implication, set certain lifestyle rules or expectations by means of the control of money.)

However, there are many more issues that are central to your child's well-being in addition to money. The purpose of the Guardianship Plan is to bridge that gap.

The benefits of taking the time to prepare a Guardianship Plan include:

- The process of preparing your Guardianship Plan will focus you on the issues that are central to your child's well-being and ongoing development;
- The process will result in a well thought out life and lifestyle plan for your child. This plan is a written agenda that can serve you personally, as much as it will, if necessary, serve your guardian;
- It will provide your guardian with an insight into your wishes for your child; and
- If one parent dies or is no longer able to participate in the upbringing of your child, the surviving parent will not be left completely alone in making important decisions about the many issues that face a parent in bringing up a child – ranging from the mundane to the more philosophical.

## 04

# Legal status of your Guardianship Plan

---

When Courts are asked to consider an issue that has an impact on your child they will be asked to consider and make a judgement on “what is in the best interests of your child”.

If you, as a parent, have taken the time and effort to prepare a written plan concerning your child's well being, then your instructions will have a significant bearing on the decision reached by the Court – unless there are compelling reasons for the Court to act otherwise.

Your wishes can only be taken into account and respected if they are recorded.

It is an unfortunate truth that many relationships do not last over the longer term, and end in separation or divorce. If parents have put in writing their considered views as to the upbringing of their child, including a consensus on key welfare and lifestyle issues, a whole range of potential areas for conflict are removed. A Guardianship Plan can in fact be taken as far as a "Parenting Agreement" and sanctioned by the Family Court. That said, the purpose of your Guardianship Plan is to address issues that relate to your child's upbringing, rather than the more contentious issue of child custody. The focus of the document is your child, not you as parents.

## 05

# Detailed contents and style

---

The issues that you choose to cover in your Guardianship Plan are a matter of personal choice. Emphasis varies from parent to parent. The purpose of this letter is to set out a number of the more common issues, to act as a prompt for your consideration.

There is no preferred style for a Guardianship Plan. The important factor is that it is written, and clearly understood.

Our job is to act as an independent party to:

- Provide you with prompts as to likely issues of relevance;
- Assist you in actually considering the issues, and documenting your views – acting as a "project manager" – to ensure that it actually gets done; and
- Provide our opinion on issues that may not appear to us to be clearly expressed – to avoid confusion for the persons to whom the document is aimed;

# 06

## Outline of issues to consider

---

### From when will the Guardianship Plan apply?

- From the time the document is finalised.
- Upon the death of one or both parents.
- Sometimes it is better to leave complete discretion to a fellow parent.

### Reference to your child's legal guardians

- You may wish to explain why you have chosen a particular guardian or guardians.
- This will assist both the chosen guardian, as well as those persons who have not been chosen.

### Involvement of other family members in your child's life

- For example, grandparents and cousins.
- What extent of involvement?

### Involvement of other non-family members in your child's life

- For example, close friends and your executor or trustee.
- What extent of involvement?

### Your child's home

- Will they reside with their guardians exclusively?
- What if there are more than one guardian and they live separately.
- What if two joint guardians cease to live together after they are appointed.
- In what area and type of accommodation?
- Assistance in establishing your child's own home when they reach a certain age (in conjunction with your executor and trustees).
- Care and access to pets.

## **General standard of living issues**

- Maintain current standard.
- Match standard of guardian (or guardian's children).

## **Schooling**

- Public versus private?
- Which particular school?
- Copies of reports to certain stakeholders (e.g. grandparents, trustees, etc).
- Issues in relation to junior, secondary and tertiary education.
- Support and encouragement during each stage.
- Payment of HECS.
- Extra tutoring.
- How to handle academic expectations.
- Riding bikes to school. So your guardian does not feel guilty in allowing your child to ride to school and something unfortunate happens.

## **Extracurricular activities**

- Music.
- Sport:
  - School.
  - Clubs.
- Travel:
  - Family holidays.
  - School trips.
  - Overseas travel.
  - Exchange programs.

## **Religious instruction**

- Attendance at Sunday School?

- Choice of general school.

## **Respect for money**

- Pocket money.
- Casual jobs during schooling.

## **Personal philosophies**

- Important books and movies you would like your children to read or see at certain times of their life.
- General life philosophies that you would like to share with your children.

## **Equipment and facilities**

- Toys.
- Computers and laptops.
- Television access.

## **Health care**

- Choice of doctor – e.g. continuing with family doctor?
- Private cover.
- Gym membership.
- Protection from the sun.

## **Desirability and extent of flexibility in adhering to your Guardianship Plan.**

Taking into consideration changing circumstances over time.

## **Your child's access to your Guardianship Plan.**

When and under what circumstances should your child have access to your Guardianship Plan?

## **Plan to review your Guardianship Plan regularly.**



**ADLV LAW**  
FIERCELY ON YOUR SIDE

**TALK TO US**

---

## What next?

If you would like to speak to someone about putting in place a Guardianship Plan, call us on 1300 654 590 or email us at [wehelp@adlvlaw.com.au](mailto:wehelp@adlvlaw.com.au).

Further information can also be found on our website at [www.adlvlaw.com.au](http://www.adlvlaw.com.au).

### **PHONE**

1300 654 590

### **EMAIL**

[wehelp@adlvlaw.com.au](mailto:wehelp@adlvlaw.com.au)

### **WEB**

[www.adlvlaw.com.au](http://www.adlvlaw.com.au)