

ADULTS WITH INCAPACITY  
(SCOTLAND) ACT 2000

# Guidance Notes and Form to Discharge a Former Financial Guardian



## 1 WHAT IS THE PURPOSE OF THE FORM?

This form is designed to enable an application to be made to the Public Guardian for discharge of a former financial guardian from his/her management of the adult's property and financial affairs.

## 2 IS THERE ANY OTHER GUIDANCE MATERIAL AVAILABLE?

Yes. These guidance notes should be read along with the relevant section of Codes of Practice for Guardians and the General Guidance Notes for Financial Guardians.

## 3 WHEN CAN AN APPLICATION BE MADE?

An application for discharge can only be made after one of the following has occurred:

- (a) the guardianship order appointing a financial guardian has been recalled (see Guidance note on Recall); or
- (b) the financial guardian has resigned or a court has removed or replaced the financial guardian; or
- (c) the adult has died; or
- (d) the guardianship order has expired.

An application to discharge the former financial guardian will not be considered until an audit certificate has been issued on the final account of the former financial guardian's management of the adult's property and financial affairs. Until a guardian is discharged he or she is still legally responsible.

## 4 WHO CAN MAKE THE APPLICATION?

Only the former financial guardian can make an application to discharge for one of the above reasons.

## 5 WHAT HAPPENS IF THE FORMER FINANCIAL GUARDIAN HAS DIED?

In these circumstances the former financial guardian's representative may apply.

## 6 SHOULD THE FORMER FINANCIAL GUARDIAN (OR THEIR REPRESENTATIVE) CONSULT WITH ANYONE BEFORE APPLYING?

Until a guardian is discharged, he or she is still legally responsible.

Yes. The adult's nearest relative (other than the former financial guardian), the named person, if applicable, the adult's primary carer (if not the nearest relative), and any other person who may have an interest in the application, e.g. other family members, should be consulted.

## 7 WILL THE APPLICATION BE SENT TO ANYONE?

Yes. The Public Guardian will send a copy of the application form to the adult (subject to section 11 of the Act), their nearest relative, primary carer, named person, if applicable, and anyone else who may have an interest. Anyone sent a copy of the application will have 21 days in which to object to the granting of the application.

## 8 WHAT HAPPENS IF SOMEONE DOES OBJECT?

The Public Guardian will consider the application and objection. If he proposes to refuse the application of his own accord or on the basis of the objection, he will intimate this to the applicant. The applicant then has 21 days to consider whether or not to oppose the proposal to refuse the application and will make his case out to the Public Guardian. The Public Guardian will offer a person making an objection the opportunity to be heard. After this the Public Guardian will grant or refuse the application. In certain circumstances the Public Guardian may remit the matter to a court.

## 9 CAN THE DECISION OF THE PUBLIC GUARDIAN BE APPEALED?

Yes. An appeal can be made to the court. However, it may be in an appellant's best interest to seek professional advice regarding the procedures involved.

## 10 WHERE CAN APPLICATION FORMS BE OBTAINED FROM?

An application form is attached to these guidance notes. If you require a printed copy of the guidance and the form, please contact the office.

## 11 IS THERE ANY FEE INVOLVED IN MAKING THE APPLICATION?

No.

# Discharge Application Form



PUBLIC GUARDIAN'S REF:

PG/

## 1. Details of adult

NAME OF ADULT:

ADDRESS:

POST CODE:

DATE OF BIRTH:

(DD/MM/YYYY)

## 2. Details of former guardian

NAME:

ADDRESS:

POST CODE:

## 3. Details of the late former guardian's representative

NAME:

ADDRESS:

POST CODE:

## 4. Reason for application

The former guardian can only be discharged from management of the adult's property or financial affairs for one of the following reasons.

Please select as necessary.

The guardianship order was recalled on: Date:(DD/MM/YYYY)

The former guardian resigned on: Date:(DD/MM/YYYY)

The former guardian was removed on: Date:(DD/MM/YYYY)

The former guardian was replaced on: Date:(DD/MM/YYYY)

The adult died on: Date:(DD/MM/YYYY)

The guardian died on: Date:(DD/MM/YYYY)

The order expired on: Date:(DD/MM/YYYY)

## 5. Details of accounts

In order to consider an application for discharge, the Public Guardian will require to audit the former guardian's accounting from the end of the last period to the date guardianship ended.

HAVE YOU ENCLOSED A FINAL ACCOUNT OF YOUR  
INTROMISSIONS ON THE ADULT'S ESTATE?

If you have answered no, please give reasons:

(If there is insufficient space please continue on a separate sheet)

## 5. Details of accounts (continued)

ARE YOU ALSO APPOINTED AS THE ADULT'S EXECUTOR?

If you have answered No, please supply the name and contact details for the Executor.

NAME:

ADDRESS:

POST CODE:

TELEPHONE NO:

## 6. Additional information

Please give any other information which you feel may be relevant in making this application.

(If there is insufficient space please continue on a separate sheet)

SIGNED:

DATE:

Once the form has been fully completed and signed it should be separated from the guidance and sent to the OPG at the address intimated overleaf.

This application will be intimated to the adult (subject to section 11 of the Act), the adult's nearest relative, the named person, if applicable, and primary carer and any other person that may have an interest in the application. Reference is made to the Codes of Practice relating to the Guardian consulting with other interested parties prior to making this application to the Public Guardian.

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- Website: [www.publicguardian-scotland.gov.uk](http://www.publicguardian-scotland.gov.uk)

The office of the Public Guardian (OPG) is open to the public from 9am to 5pm, Monday to Friday.

This leaflet is available free of charge and available in other formats and community languages on request.

The office of the Public Guardian subscribes to Language Line and the RNID Typetalk service.

If you have any comments/suggestions regarding the contents/layout of these guidance notes or ways in which we might improve them, please send these to the above noted address. Your feedback is important to us as part of our ongoing review of our services.

