



FACTSHEET 1 - The AWI (2) Suitability Report

A Mental Health Officer (MHO) from the local authority is required to complete a Suitability Report (AWI 2) when an application relates to an adult with a mental disorder and when welfare powers or a combination of welfare and financial powers are being applied for.

This report has a dual function as the MHO is required to comment and provide an opinion on the:

- General appropriateness of the order, and
- Suitability of the proposed guardian.

The report guides the MHO through the principles of the AWI Act to ensure that they are complied with. The adult and those with an interest in his/her affairs will be interviewed to gauge their opinion on appointing a guardian/s to act on the adult's behalf.

The financial guardian will be in a position of trust in regard to the adult's financial affairs. S/he has a responsibility to apply skill and care when exercising the powers granted by the Sheriff in relation to the adult's financial assets. It is important that the financial guardian is aware of their function and what is expected from them in terms of complying with the requirements of the AWI Act.

What is Caution?

Usually the financial guardian will be directed by the Sheriff to find caution. This is an insurance bond which will protect the adult's estate. The caution premium is paid annually.

Why supervise the Financial Guardian?

The Act requires that the Public Guardian supervises any person who is authorised under a guardianship order relating to the property or financial affairs of an adult. The Public Guardian will supervise throughout the duration of the appointment. Initially, the financial guardian will be required to submit an inventory and management plan.

Although financial guardians will receive a copy of the court's interlocutor detailing their appointment, **they cannot legally act**, unless the Sheriff has directed otherwise, until the Public Guardian has approved the management plan. Until the management plan has been approved financial guardians may only:

1. Ingather information on the adult's estate to prepare the inventory etc.
and;
2. Pay for day to day living expenses.

The Public Guardian may however on application grant authority to the guardian to use their other powers prior to the Management Plan being approved if it would be unreasonable to delay the exercise of a particular power.



On an annual basis the financial guardian will be required to produce an accounting to the Public Guardian. If heritable property belonging to the adult i.e. their dwelling place is to be sold or if heritable property is to be purchased for the adult, the guardian must seek the Public Guardian's consent prior to carrying out this action.

Are fees due?

Fees will be due to the Public Guardian unless an application has been approved by the Public Guardian to waive the fee. A fee is charged for authorising the inventory of estate and draft management plan, and a further fee is charged for approving the annual accounting. Information about fees can be found on the Public Guardian's website.

Subsequent fees will be required if applications are submitted to sell or purchase heritable property on behalf of an adult.

Other information

The fact sheets below have been produced to provide an outline of what the financial guardian will be expected to provide at each supervisory stage.

- Fact sheet 2 – Inventory of Estate
- Fact sheet 3 – Management Plan
- Fact sheet 4 – Annual Accounting

Further information is available from:

Office of the Public Guardian (Scotland)
Hadrian House
Callendar Business Park
Callendar Road
Falkirk FK1 1XR

- Tel: 01324 678300
- Email: opg@scotcourts.gov.uk
- Website: www.publicguardian-scotland.gov.uk