

GUARDIAN DECLARATION



To be completed by the proposed guardian - Assistance can be provided by the Office of the Public Guardian (OPG) staff, please contact us on Tel: 01324 678396

Please note that any information included in this form will remain confidential and will be destroyed and entirely removed if the applicant is not appointed guardian.

Section 1 – Details of the adult to whom this court application relates

| | | |
|-----|-------------------------------------|--|
| 1.1 | Full name (including middle names): | |
| 1.2 | Address (including postcode): | |
| 1.3 | Date of birth: | |

Section 2 - Your details (the person applying to be appointed as guardian)

Please note that Data is processed only so far as to allow the Public Guardian to comply with their statutory remit under the Adults with Incapacity (Scotland) Act 2000 (the “AWI Act”) and shall be processed in terms of Article 5 of the General Data Protection Regulations. In that respect, the OPG processes personal data in regard to parties involved in applications and appointments made under the AWI Act.

| | | |
|-----|---|---------------------------|
| 2.1 | Full name (including middle names): | |
| 2.2 | Address (including postcode): | |
| 2.3 | Contact telephone numbers: | Home: Mobile: Work: |
| 2.4 | Email address: | |
| 2.5 | Date of birth: | |
| 2.6 | What is your relationship to the person to whom this application relates? | |

GUARDIAN DECLARATION

Section 3 – Your personal circumstances

| | | | |
|-----|--|-------------------------------------|------------------------------------|
| 3.1 | What is your current occupation? If you are not in paid employment, please give details of your current circumstances or previous employment if you are retired. | | |
| 3.2 | How long have you worked in your current occupation (if applicable)? | Years | Months |
| 3.3 | Have you ever been appointed to act as a guardian for anyone else? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| | If yes, please give details of the person(s) and (if known) case reference. | | |
| 3.4 | Have you been convicted of a criminal offence (excluding driving offences) in the last 5 years? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| | If yes, please provide details of the offence, including the date of the conviction. | | |
| 3.5 | Taking into account your circumstances (personal or otherwise), is there anything that would impact on your ability to fulfil your duties as guardian e.g. ill health, caring responsibilities or any other family/business commitments? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| | If yes, please provide details. | | |
| 3.6 | If you are appointed as guardian, are there any relatives of the adult or of yours or any others who might take issue with your application? If so, do you know why? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| | If yes, please provide details. | | |
| 3.7 | Are you aware if the adult to whom the application relates has prepared a Will? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| | If yes, please provide executors and beneficiaries details, if known and if you feel able to disclose this information without breaching confidentiality. | | |

GUARDIAN DECLARATION

| | | |
|-----|---|---|
| 3.8 | <p>Are you aware that no-one is obliged to take on the appointment of guardian and that if you do not wish to or do not think you are able to, you do not have to become financial guardian?</p> <p>Have you been advised that a professional guardian can be appointed at cost to the estate of the guardian's proper professional charges as approved by the Public Guardian?</p> | <div><input type="checkbox"/> Yes<input type="checkbox"/> No</div> <div><input type="checkbox"/> Yes<input type="checkbox"/> No</div> |
|-----|---|---|

GUARDIAN DECLARATION

Section 4 – Your financial circumstances

| | | | |
|-----|--|-------------------------------------|------------------------------------|
| 4.1 | Do you have a personal bank or building society current/savings account? (joint or sole account)? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| | If yes, how long have you held the account? | Years | Months |
| 4.2 | Have you been refused credit in the last 5 years? (e.g. having a personal loan application refused)? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| | If yes, please provide details. | | |
| 4.3 | Have you ever been declared bankrupt or made the subject of an Individual Voluntary Arrangement in the last 5 years? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| | If yes, please provide details. | | |
| 4.4 | Have you or any family members received a payment, gift or other benefit from the adult since the adult's diagnosis? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| | If so, please provide details. | | |
| 4.5 | Are you aware that the adult's finances must be kept separate from your own? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 4.6 | Do you or any family members draw any benefit from anything belonging to the adult e.g. do you live in a house owned by the adult or use a car owned by the adult? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

GUARDIAN DECLARATION

Section 5 – Your personal responsibilities to the adult to whom the application relates

Becoming a guardian means that you have to take on a number of duties and responsibilities, and have to act in accordance with certain standards. If you are appointed as a guardian, the court order will set out the exact powers conferred on you, which will accompany your certificate of appointment.

The main duties and responsibilities you may have to take on are set out below. Please review each one and tick 'Yes' if you give your undertaking to act in accordance with the duty and responsibility. You can use the comments section to support additional information such as a particular professional skill, life experience, public duty or role that you think is relevant.

If you do not agree to any of the responsibilities and tick 'No', please use the comments section to explain your reasons. It may be because you do not have experience in the particular duty, or think you might not have the skills needed.

Please note – By ticking the 'No' box this will not necessarily prevent your appointment as guardian.

| | Responsibilities | Yes /No | Comments |
|---|--|---|----------|
| 1 | I will have regard to the Adults with Incapacity (Scotland) Act 2000 (the Act) and Code of Practice. I will apply the principles of the Act. I will provide support to the adult to assist them in all aspects of acting and deciding within the scope of my appointment. In each matter, I will only act or decide if the adult cannot, if necessary with appropriate support, do that for his/herself. Where I act or decide, I shall do so in accordance with the adult's known wishes and feelings, or my best interpretation (from all of the knowledge and information available to me) as to what their wishes and feelings would have been, if it had been possible to ascertain them. | Yes No | |
| 2 | I will act within the scope of the powers conferred on me by the court as set out in the order of appointment, and will apply to the court if I feel additional powers are needed. | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| 3 | I will act with the due care, skill and diligence, as I would do in making my own decisions and conducting my own affairs. | <input type="checkbox"/> Yes <input type="checkbox"/> No | |

GUARDIAN DECLARATION

| | | | |
|----|---|---|--|
| 4 | Where there may be a conflict of interest, I will disclose it to the OPG and I shall seek professional advice where appropriate from them or my solicitor to ensure that any conflict of interest does not interfere with my responsibilities as guardian. I am aware that the OPG can assist and advise me in carrying out my appointment. | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| 5 | I understand that there will be annual paperwork to complete and return to OPG. This is my responsibility as guardian, should I choose to delegate completion of the Inventory, Management Plan or Accounts, I will personally be liable for any fees incurred. | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| 6 | I will act with honesty and integrity. | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| 7 | In keeping with the general principles of the Act, I will always take into account the past and present wishes and feelings of the adult; and, insofar as reasonably practicable, I will take into account the views of the nearest relative, named person, primary carer or any other involved person. | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| 8 | I will visit the adult to whom the application relates as regularly as is appropriate, but at least twice per year. | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| 9 | I will work with the adult to whom the application relates and any carer(s) to achieve the best quality of life for him/her within the funds available. | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| 10 | I will co-operate with any representative of the court or the OPG who might wish to meet me, or the adult to whom the application relates, to check that the guardianship arrangements are working. | <input type="checkbox"/> Yes <input type="checkbox"/> No | |

GUARDIAN DECLARATION

| | | | |
|----|---|---|--|
| 11 | I am aware that my appointment depends on the adult's lack of capacity to safeguard and promote his/her interest in his/her property and/or financial affairs. If the adult is capable of regaining or developing capacity, I am aware that I have a duty to monitor the adult's capability, and if at any point it appears that the adult may have capacity in relation to their financial affairs as a whole or any of the powers that I hold, other than for a temporary period only, I undertake promptly to seek the advice of the OPG and/or a solicitor, and to proceed in accordance with such advice, including (if so advised) to have the adult's capacity assessed by an appropriate professional person. | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
|----|---|---|--|

Further responsibilities if you are applying to be appointed as a financial a guardian.

| | | | |
|----|--|---|--|
| 12 | I will comply with any decisions of the court or requests made by the OPG. | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| 13 | I understand that I may be required to provide security for my actions as guardian. If I am required to purchase insurance, such as a Bond of Caution, I undertake to pay the premiums promptly from the funds of the adult to whom the application relates. | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| 14 | I will keep accounts of dealings and transactions taken on behalf of the adult to whom the application relates. | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| 15 | I will keep the money and property of the adult to whom the application relates separate from my own. | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| 16 | I will ensure, so far as is reasonable, that the adult to whom the application relates receives all benefits and other income to which they are entitled, that their bills are paid and that a tax return for them is completed annually, if applicable. | <input type="checkbox"/> Yes <input type="checkbox"/> No | |

GUARDIAN DECLARATION

| | | | |
|----|---|---|--|
| 17 | I will contact OPG to discuss the sale, or purchase, of any heritable property (e.g. house), before taking any steps towards this. | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| 18 | I understand that until my Inventory and Management Plan have been approved by OPG, I will have restricted powers; to pay the adult's day to day living expenses. | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| 19 | I will contact OPG to discuss any significant expenditure on behalf of the adult to whom the application relates prior to any purchases, if not already approved in the Management Plan. | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| 20 | I will contact the OPG to discuss any gifts to be made on behalf of the adult to whom the application relates prior to any gifting that has not already been approved in the Management Plan. | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| 21 | I understand that I may personally be liable for any expenditure not supported by the OPG (following specific authorisation or as approved within the Management Plan). | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| 22 | If applicable, I will take reasonable steps to maintain the property of the adult to whom the application relates, for example arranging for insurance or repairs (seeking approval of expenditure in advance, when required). If necessary I will arrange and oversee the sale or letting of the property taking the appropriate legal advice. | <input type="checkbox"/> Yes <input type="checkbox"/> No | |

GUARDIAN DECLARATION

Section 6 - Additional Information

Please use the box if you would like to provide any additional information

Section 7 – Caution Declaration

I declare and represent that if I am required to apply for a bond of caution I will be/am acting on behalf of the other guardian(s) and that I will have their prior authority to do so. Should another guardian apply for a bond of caution on my behalf, I hereby consent to this guardian being appointed to act as an agent on my behalf with regards to the bond of caution. ☐ **Yes** ☐ **No**

Section 8 – Statement of truth

Having completed this form, I understand my responsibilities should I be appointed as guardian and I am happy to proceed with the application. ☐ **Yes** ☐ **No**

Section 9 – Personal Data

Having completed this form, I understand that OPG will retain a copy of same within the case file and will send a copy to the court. I understand these records will be held securely and treated confidentially in terms of the Scottish Courts & Tribunals Service Records Management Plan and that information provided within this form may be used to tailor the support and supervision offered in this case. ☐ **Yes** ☐ **No**

GUARDIAN DECLARATION

Section 10 – Submission of Application

Having completed this form, this form will be returned to my solicitor. It will be enclosed when the application is intimated on the Office of the Public Guardian.

Signature _____

Print name _____

Date _____

Office of the Public Guardian

Hadrian House

Callendar Business Park

Callendar Road

Falkirk

FK1 1XR

Tel: 01324 678300

Email: opgorders@scotcourts.gov.uk

Twitter: @OPGScotland

Website: www.publicguardian-scotland.gov.uk

Internal use only (AO name):

Reference PG/

Date Issued to FG:

Date received: