

BOND OF CAUTION INFORMATION

Caution

Caution, pronounced 'kayshun', is a form of insurance that will reimburse the incapable person's estate in the event of any financial loss as a result of the guardian's mismanagement how so ever caused deliberate or not. The Sheriff will decide if caution is required.

Cautionary Providers

If the court requires you to 'find' caution, you must obtain caution **before** you have authority to exercise **any** of your powers. In addition you will have to renew caution on an annual basis. All premiums payable can be recovered from the adult's estate.

Marsh Limited

The Office of the Public Guardian has an arrangement with Marsh to provide affordable and easy to arrange bonds of caution. Marsh is a name you can trust, being a global leader in insurance broking and risk management, and the bonds are underwritten by Aviva, a UK leading insurer.

To obtain your bond online, visit www.arrangebonds.com and complete the short form. You will receive a quote instantly and can buy cover immediately, with bond documentation issued straight away.

Alternatively, complete the two sided A4 form enclosed and send it to Marsh, with a cheque for the first 12 months premium (table of premiums enclosed). Alternative payment methods are available and, usually no other documentation is necessary. When applying by post, you will receive confirmation within a few days that caution has been granted.

Marsh Ltd has helped guardians arrange bonds of caution for over 10 years. As a result, our professional and friendly team is here to help you. They understand exactly what the Office of the Public Guardians requires from guardians and make the process of obtaining the bond of caution as effortless as possible.

If you have any queries about Aviva bond of caution, please contact Marsh Limited on 0207 178 4116 or email: Lps.enquiries@marsh.com.

There is however no obligation for you to use Marsh Limited and other bond providers are available.

The Public Guardian is not permitted to recommend nor endorse any company. You are responsible for making your own checks where necessary.

FREQUENTLY ASKED QUESTIONS

We understand that being a Financial Guardian or Intervener can be stressful and we would like to assist you in as many ways as we can. You will find below some frequently asked questions, should you have any further queries in respect of the bond, that are not covered below, please contact Marsh by email at LPS.enquiries@marsh.com or by telephone **0207 178 4116**.

Please note “The Adult” refers to the person to whom you have been appointed as Guardian or Intervener.

Q. What is a Bond of Caution?

- A. The Bond of Caution is a guarantee to pay any financial losses arising from the Guardian/Intervener’s failure to perform their duties as directed by the Sheriff and/or the Office of the Public Guardian.
Failure could be the accidental mismanagement of the estate, or may be a deliberate act of misappropriation/fraud.

Q. Why do I need a Bond of Caution?

- A. The Sheriff appoints a Guardian/Intervener to look after the affairs of an Adult, who is unable to take care of their own affairs. For the Guardian/Intervener to act, the Sheriff may require a Bond of Caution to be in place to safeguard the assets/estate of “The Adult”.

Q. I am appointed as a joint guardian with someone else what does this mean?

- A. The powers that each person has will depend on what your guardianship order says, most likely you will both/all have all powers. You are permitted to act individually on these powers, unless your order explicitly says you have to work jointly (this might be on all matters or just on a specific matter, or matters). Each guardian is responsible for his /her own actions or failures if things go wrong; this can include one guardian failing to make sure that the other guardian is acting properly.

Q. How do I apply for the bond?

- A. An application for a Bond can either be made on-line at www.arrangebonds.com or by completing the enclosed application form and send it to Marsh Limited, with a cheque for the first 12 months premium. You will receive confirmation within a few days that caution has been granted.



Q. Now there is a Bond of Caution website, will I be able to manage and view an existing bond via this website?

A. The Bond of Caution website is designed to accommodate new bonds only. Existing bonds will continue to be managed externally of this website. If you are a professional guardian and want to view all existing bonds you manage, a report can be provided upon request to Marsh Ltd, simply call us on **0207 178 4116** or emailing us at Lps.enquiries@marsh.com

In time you will be able to request documents to be made available via a separate online portal, supported by our software house. To find out more about this facility please call us on **0207 178 4116** or email us at Lps.enquiries@marsh.com

Q. Can I apply for a Bond of Caution over £750,000 using the new website?

A. If you are applying for a Bond of Caution greater than £750,000 you will need to submit a manual application, as the website can only process Caution up to £750,000. A blank application form is available via the website.

This is because additional documentation such as a proposal form may be requested by the insurer, Aviva Insurance Ltd, which is not supported by the website and Marsh Ltd are unable to accept a bond over this value without referral to the insurer.

Q. I have applied for a Bond of Caution online, how can I access my bond certificate?

A. If you are applying for a Bond of Caution for the first time an account is automatically created for you when you go through the bond application process and a bond certificate is available once the bond has been purchased.

If you are returning to complete an application you have started or wish to access the bond certificate at a later stage, you will need to access your account via the Login option. To login you will be prompted to enter your email address and password. If you have not yet set a password as this is the first time you have attempted to login, simply click on the 'can't access your account?' link and an email will be sent to your email address with a link to changing or creating your password. Once you have created a password, please keep this safe as it will be needed the next time you login.

Q. As a joint Guardian can I access or view an application made by another joint Guardian via the website?

A. When applying for a Bond of Caution via the website the lead guardian (the term lead guardian is used simply to describe a guardian applying for a Bond on behalf of all guardians) will have an account automatically created for them. Should you as a joint guardian wish to view this bond certificate, you will either need to speak with the lead guardian directly or you can contact Marsh Ltd on **0207 178 4116** or email Lps.enquiries@marsh.com and request us to issue you with a copy.

Q. How can I pay the Anniversary Premium as I don't have a chequebook?

A. Payment can be made by Internet Banking/BACS our account details are:

Account Name:	Marsh Ltd NST Client Money
Account Number:	91 40 78 99
Sort Code:	40 02 50

Alternatively, you can make a payment over the telephone with a credit/debit card. To do this please contact Marsh Ltd on **0207 178 4116**.

Please ensure to include your reference number beginning SPG/C with any payment.

Q. Can the caution amount be amended as the "The Adult's" assets/estate value increases or decreases?

A. The Caution amount is set by the Sheriff when the Court Order is made. The Order may state that the Office of the Public Guardian can adjust the level of cover required on an annual basis, to reflect the current value of the estate. If it does not, then only the Court can amend the level of caution cover required.

Marsh can only alter the level of cover by order of the Court or the Office of the Public Guardian. If you require additional assistance, please contact The Office of the Public Guardian on **01324 678300** or by email OPG@scotcourts.gov.uk.

If we are made aware that a new Bond is required because of the above circumstances, then the new Bond will be set up on a short term basis, keeping the same anniversary date. Most importantly, no money will be payable until the next anniversary date unless there has been an increase in the amount of Caution.

Q. Is a refund or additional premium due when there is a change in the Caution following the annual review of the Adult's accounts by the Office of the Public Guardian?

- A. If there is an increase in the amount of Caution, no additional premium will be required until the next anniversary. Where there is a reduction, a refund will be given for the difference in the annual premium (by taking into consideration the premium paid at the last anniversary and the new annual premium due based upon the new amount of Caution).

Q. Is a refund due when "The Adult" dies or Bond of Caution is terminated?

- A. As stated on the Bond of Caution Form "I/We shall not be entitled to any refund in the event of early termination or replacement of the bond". Whilst no further premiums are payable, no refund is due because the bond remains in force for a minimum of one year after the termination/replacement date. This allows time for your final account to be reviewed by the Office of the Public Guardian, and your discharge processed, until such times the Cautioner still requires cover.

Q. What happens if "The Adult" or guardian moves address?

- A. You should notify both Marsh and the Office of the Public Guardian of any change in address or contact details as soon as possible.

Q. I have notified the Office of Public Guardian that "The Adult" has passed away, but you have still sent me an Anniversary Premium Notice?

- A. If this has happened we apologise for any distress this may have caused you. It is possible we have not been informed of "The Adult's" death by you or by the Office of the Public Guardian, resulting in an automated annual anniversary notice being sent. Please notify us and we will update our records immediately.

Q. I no longer wish to be a Guardian/Intervener?

- A. If you no longer wish to act as a Guardian/Intervener, you may be able to resign if a joint or substitute guardian is in place. Failing this, a replacement would require to be found before you could be relieved of your duties. The Bond of Caution premium is still payable until you are relieved of your duties.

Q. What happens if the Guardian/Intervener dies?

- A. If there is a single Guardian/Intervener then a new Guardian/Intervener and subsequently, a new Bond of Caution will have to be put in place (via a new Court Order). If the original Court Order has more than one Guardian/Intervener, jointly and severally appointed, and one or more of the Guardians/Interveners pass away, in order to remove the deceased Guardian/Intervener(s) a new Bond of Caution will have to be arranged. In both cases we would require the completion of a new Bond Application Form.



Q. Who/When can a claim be made on the Bond?

- A.** The Court and/or the Office of the Public Guardian can make a claim on the bond if, after investigation, it has been decided that accidental mismanagement or a deliberate act of misappropriation/fraud has resulted in a loss to “The Adult’s” estate.

Q. Are there any repercussions on me as guardian, if a claim is made on the Bond?

- A.** Yes. The Guardian(s) is liable to the Cautioner for any sums paid out, following a claim on the Bond. The Cautioner “may” take such action as is appropriate against the Guardian(s) personally to recover any loss. Action may include requesting the funds be repaid to them, or civil court action etc.

You should also note that if, after investigation, the loss to “The Adult’s” estate is deemed deliberate, the Office of the Public Guardian may report the matter to the Police for further investigation.

Q. Who can help me with questions that I have about my legal obligations as a Guardian?

- A.** There is a Legal & Counselling Helpline available to offer you support. This is a confidential and discrete service available day or night, free of charge; you only pay for the call.

Legal helpline 0345 300 1899

Counselling helpline 0117 934 0105

Please note this is an advice only helpline.

Q. Where else can I obtain further information on my role as guardian?

- A.** You can contact the Office of the Public Guardian for support and assistance at any point, using the telephone number and email address previously stated. Alternatively you can visit their website at <http://www.publicguardian-scotland.gov.uk/> for further information or to view the Adults with Incapacity (Scotland) Act 2000 Codes of Practice.