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Understanding Guardianship Orders

*The bank warned us Mum was being accompanied by her ‘young friends’ to withdraw money for shopping. There was never any food in the house and she didn’t even know their names. She was regularly withdrawing £130….. A guardianship order stopped them from taking her money and I now make sure her cupboards are full and her money looked after.*



By law, if an adult (over 16) is unable to make safe choices about their welfare and/or their financial affairs, an application can be made to the Court for someone else to make decisions on their behalf. These are called Guardianship Orders. Guardians can be partners, carers, relatives or social workers and make choices on behalf of the person they are representing in matters such as where they will live and how they should be looked after. Guardianship orders can be financial or welfare.



*Once I had obtained welfare guardianship I was able to find this lovely sheltered housing where Mum could sit outside with her friends. It’s good to know she is safe and well………..*

A guardian must be an individual, except where the Chief Social Work Officer for the adult's local authority can be nominated to deal with any personal welfare aspects of an adults care. An individual can be a private individual, e.g. a relative or friend of the adult, or someone acting in a professional capacity, such as a solicitor or accountant. An application can be made to appoint more than one guardian and/or substitute guardians.

*I was already a guardian for my Dad when my brother was also appointed guardian. It seemed like a good idea at the time as we could both make decisions as to what was best for Dad. Two months later he had withdrawn all Dads’ savings (£14,000) and moved to Spain……..*

Before applying for a guardianship order you should consult with the adult to ensure, as far as possible, that his or her wishes are taken into account. DIAS can assist with this process of consulting with the adult, see our contact details below.

A guardianship order is normally awarded for a period of three years and a certificate of the adult’s incapacity is required from two medical practitioners as part of the application process. The application is made through the Sheriff Court. If you are applying for a guardianship order relating to the personal welfare of the adult, you may be able to apply for civil legal aid to help with the legal costs of making the application.

Guardianship orders are subject to supervision. If the order is for financial guardianship then the law has appointed a Public Guardian to oversee the actions of guardians. A financial guardian would be expected to lodge details of the adult’s estate and a plan of how they will administer this. Welfare guardianship is supervised by local authorities. An application can be made by local authorities or relevant medical personnel to ensure a welfare guardian is acting in the best interests of the adult.

*The adult was admitted to hospital and, after treatment, the guardian was advised that the adult would be unable to return home and was repeatedly asked to arrange suitable alternative care facilities. Two months later the adult was still in hospital. The adult’s consultant successfully applied to the Court to compel the guardian to arrange suitable alternative care.*



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