

## Where can I get more information?

Our staff will be happy to answer any enquiry about how to go about your application and what happens afterwards if you are appointed as a financial guardian. Your local Citizens Advice Bureau or solicitor may also be able to help. For welfare matters the social work department of your local authority may be able to give you advice and guidance.

More information is available from our website if you are thinking of applying to become a financial guardian.

Our office is open to the public. If you wish to visit the office, it is advisable to make an appointment, to be sure of seeing a relevant member of staff.

### Office of the Public Guardian (Scotland)

Hadrian House  
Callendar Business Park  
Callendar Road  
Falkirk FK1 1XR

- Telephone: 01324 678300
- Email: [opg@scotcourts.gov.uk](mailto:opg@scotcourts.gov.uk)
- [www.publicguardian-scotland.gov.uk](http://www.publicguardian-scotland.gov.uk)
- Opening hours: 9am-5pm Monday-Friday

The Office of the Public Guardian is part of the Scottish Courts and Tribunals Service.

Other leaflets available in this series:

Power of attorney

Intervention order

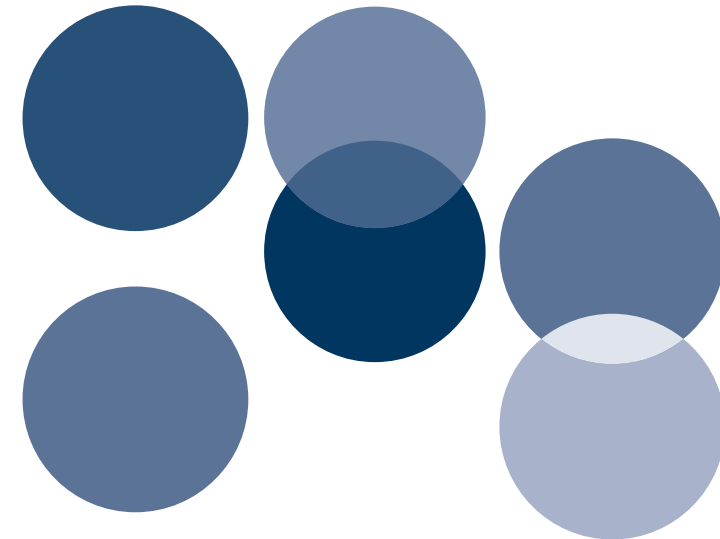
Access to funds scheme



Our leaflets may be available in different formats or languages. We subscribe to Language Line and the Text Relay service.

We welcome any feedback or comment you may have on the content of our leaflets. You can get in touch with us or fill in the feedback form on our website.

## What is a guardianship order?



## What is it?

It is a court order granted under the Adults with Incapacity (Scotland) Act 2000. This order is made at the sheriff court and will state who has been appointed by the Sheriff to look after the affairs of an incapable adult. The order will say what the appointed person, called a guardian, can actually do.

## What does it do?

The order could allow a guardian to manage on an ongoing basis the financial and/or welfare affairs of an adult who is unable through incapacity to deal with these matters.

## Why would I need it?

If there is not already something in place, such as a power of attorney, then you might need to apply for an order to give you the legal authority to do certain things for the adult.

## What does incapable mean?

Someone's capacity could be impaired gradually or suddenly as a result of an accident or illness. A registered and licensed medical doctor will be able to say whether or not that person is unable to make decisions.

## Would I be able to help my partner or relative without a guardianship order?

Depending on the nature of the decisions which need to be made, you may not have the automatic right to take actions on behalf of someone who is unable of doing so for themselves.

## How much does it cost?

There are various costs – court fees for the application and there may be fees for the medical reports and we charge a fee to register the order. If you employ a solicitor to make a guardianship application there will be legal fees unless the case qualifies for legal aid. If you use a solicitor you should ask them about legal aid – not all solicitors undertake work on a legal aid basis.

## How long does it last?

A guardian is usually appointed for 3 years initially, but a Sheriff has discretion to make a shorter or longer appointment. An order ceases on the death of the adult.

## How do I make an application?

An application called a 'Summary Application' is made to the sheriff court. The application will require to be sent along with 2 medical reports (which are completed by 2 individual registered and licensed medical doctors) and other supporting documentation. Because of the complexity of the process most people use a solicitor to make the application to court.

## Who can be a guardian?

Anyone can apply including a partner, family member, friend or professional such as a solicitor, accountant or someone from the person's local authority social work department.

## Who checks what guardians do?

The local authority social work department will supervise guardians with welfare powers.

We supervise orders dealing with money and/or property. If you are appointed as a financial guardian you will have specific duties to carry out. Duties include sending documents to us detailing what money you are looking after and what you plan to do with it. The majority of financial guardians will need to complete the following:

- inventory of estate – this outlines all of the interests, such as bank accounts, pensions, property etc. belonging to the adult that you have responsibility to deal with.
- management plan – this outlines how you plan to manage the property and finances belonging to the adult e.g. changing bank accounts, selling a house, managing investments.
- annual accounts – you will need to keep good records as each year you need to send us your accounts. Your account will detail the transactions that have been carried out within a period of time, usually 12 months.