

**Affidavit in support of application of appointment
for appointment as welfare guardian**
The Protection of Personal and Property Rights Act 1988

In the Family Court
at
[place]

FAM No:

.....
[full name]

.....
[address]

.....
[occupation]

Applicant

.....
[full name]

.....
[address]

.....
[occupation]

Person this application is about

[Set out full description of document (including whether it is made with or without notice), its date, and, in the case of an affidavit or affirmation, the name of the deponent and in whose support it is filed.]

This document is filed by

[name and address for service and, if filed by lawyers, the name and telephone number of the acting lawyer]

I,
[name]

of
[address]

.....
[occupation]

swear (or affirm)

1. I confirm my consent to act as welfare guardian for the person in respect of whom the application is made (“the person”) pursuant to an order to be made under the Protection of Personal and Property Rights Act 1988 (“the Act”).

2. My relationship with the person is as follows:
.....

3. I am aged twenty years or over.

4. I confirm the contents of my application for
[select the option that applies]
a welfare guardianship order.
a review of the order dated appointing
..... as welfare guardian(s)

[Note: If it is in the best interests of the subject person for there to be more than one welfare guardian see s.12(6) of the Act.]

5. I confirm that I am familiar with the responsibilities and duties of a welfare guardian pursuant to the Act.

6. I confirm that to the best of my knowledge the person is ordinarily resident in New Zealand and
- is of or over the age of 18 years or is or has been married, or in a civil union, or in a de facto relationship, and
 - is not already the subject of a property order.

[If application is in respect of a person under 18 years refer to s.12(3) of the Act and set out reasons]

7. To the best of my belief I confirm
- that the person wholly lacks the capacity to make or communicate decisions relating to any particular aspect(s) of the person's personal care and welfare; and
 - that my appointment as welfare guardian is the only satisfactory way to ensure that appropriate decisions are made relating to the following particular aspect(s) of the personal care and welfare of the person;
- for the following reasons:

[set out factual basis including reference to any medical reports/evidence. Continue on separate page if necessary]

8. *[select and complete the option that applies]*

To the best of my belief the person is neither a patient nor proposed patient under the Mental Health (Compulsory Assessment and Treatment) Act 1992.

To the best of my belief the person is a patient under a Compulsory Treatment Order made under the Mental Health (Compulsory Assessment and Treatment) Act 1992. An order was made for in-patient/community treatment by the District Court at *[place]* on *[date]* and that order still continues. The person receives treatment from:

.....
[name of hospital or service provider]

To the best of my belief, the person is not subject to any such Order under the Mental Health (Compulsory Assessment and Treatment) Act 1992, but is currently receiving assessment/treatment from:

.....
[name of hospital or service provider]

9. In the information sheet that accompanies this application, I have named the following people/organisations affected by this application.

[specify]

I have obtained consents from the following:

[set out]

I consider service should be effected on the following: *(See Note 1)*

[set out names/organisations]

To the best of my knowledge and belief there are no other persons/organisations including family and whanau members who should be served with the application.

10. *[select and complete if applies]*

I do not believe the person should be served with the application for the following reasons:

[set out reasons]

11. *[select and complete if applies]*

I do not believe the person should appear in Court in respect of the hearing of this application for the following reasons:

[set out reasons]

12. I consider that I am a suitable person to be appointed by the Court as a welfare guardian for the following reasons:

[Set out your reasons. The Court needs to be satisfied that the applicant is a person who can be entrusted with the statutory obligations set out in s 12 and that there are no factors – legal or otherwise- that would stand in the way of an appointment. Therefore you need to cover the following]:

- *Are you or have you ever have been the subject of a bankruptcy order made under the Insolvency Act 1967? and/or;*
- *Are you presently subject to a compulsory treatment order made under the Mental Health (Compulsory Assessment and Treatment) Act 1992?*
- *Have you any previous criminal convictions? If so, please list.*
- *Are you subject to an order made under the Protection of Personal and Property Rights Act 1988?*

[If one or more applies, applicant to set out reasons why he/she should be appointed]

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13. I state as follows:

- That I am capable of carrying out the duties of a welfare guardian for the person in a satisfactory manner, having regard both to the needs of the person and my relationship with the person; and
- That I will always act to protect and promote the welfare and best interests of the person; and
- That I will seek to encourage the person to develop and exercise such capacity as they have to understand the nature and foresee the consequences of decisions relating to their personal care and welfare, and to communicate such decisions; and
- That I will seek to encourage the person to act on his/her own behalf to the greatest extent possible; and
- That I will seek to facilitate to the greatest extent possible the integration of the person into the community; and
- That I will consult so far as is practicable with the person and such other persons or representatives of non-profit organisations as are, in my opinion, interested in and competent to advise me in relation to the personal care and welfare of the person; and
- That, if the person is or becomes subject to a property order, I will regularly consult with the property manager to ensure there is no breakdown in communication; and
- That there is unlikely to be any conflict between my interests and those of the person.

14. I confirm that I am aware that I am not entitled to remuneration for my services.

15. I confirm that I am aware that all expenses reasonably incurred by me as welfare guardian can be charged against and payable out of the property of the person. I acknowledge that at all times when incurring any such expenses the needs of and the ability of the person's estate to pay for those expenses will be taken into account by me.

16. At this stage I envisage that the following expenses are likely to be incurred:

[set out – if none, write none]

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17. *[select and complete if applies]*

I seek an interim order because it is in the best interests of the person that an immediate order be made until the Court is able to make a final decision, for the following reasons:

[set out reasons]

Sworn (or Affirmed) at *[place]*

this day of 200

before me.

.....
Applicant

.....
Signature of person administering oath/affirmation who shall add his/her office

Note 1

As a minimum requirement service should be effected on the following persons:

- *Person in respect of whom the application is made (unless the person wholly lacks the capacity to understand the nature and purpose of the proceedings, or exceptional circumstances exist to justify dispensing with service);*
- *Each parent or guardian of that person;*
- *If the person is not living with either his or her parents or guardian/s, any person with whom the person is living;*
- *If the person is subject to a property order, the manager of the person's property.*

[If applicant does not seek service, reasons to be given - e.g. family member whereabouts unknown]