

Welfare Guardianship 2018 Guide for completing the application forms



Realising possibilities - Whakatinana ana I ngā wawata

Spectrum Care 
Te Wai Kahukura Atawhai



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Things you should know



Spectrum Care only supports applications for people who are completely unable to make decisions and are totally unable to Self Advocate!

- Being a guardian means you have the ability to access all information about the person you are guardian for.
- Being a Welfare Guardian means you must consult as much as possible with the person you are guardian for.
- Being a Welfare Guardian does not mean you can control the money or property, this needs to be done through an application for a Property Management Order.
- You must always act in the interests of the person.
- Form PPPR 14 needs to be printed on yellow paper for the Judge.
- All papers are to be single sided!
- The Documents must include a recent medical report
- The process through the courts can take up to 8 months
- The entire process is free if you don't use a lawyer to make application
- The Affidavit must have every page (accept the last one) initialled as well as signed and witnessed in front of a Justice of the Peace, Lawyer or Court Registrar.
- The Order will generally be for 3 years, sometimes 5 but best to ask for this.
- There is generally no court appearance.
- A copy of the Order must be provided to the house (if in residential care) and to the Advocacy Leader in Advocacy Services if the person is accessing Spectrum Care Services.
- Only one person can be the Welfare Guardian
- If the applicant (Welfare Guardian) lives overseas they need to provide a New Zealand address for the service of the documents.
- If the Guardian passes away, any new potential Guardian must apply through the courts.
- Renewal applications should be done around 3 to 6 months prior to the Orders expiry.
- The courts will not send out reminders on the expiry, it is up to the applicant to know when to reapply.

Form PPPR 1

rr 72(1)(a), 406

Form PPPR 1
Front page for documents filed in Court
under 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 the 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.]

With notice to be the Welfare Guardian for

This document is filed by

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

.....

Select the court closest to where the person who needs a Welfare Guardian lives

Name of the person applying to be the Welfare Guardian
Their address
Their occupation

Name of the person who requires a Welfare Guardian
Their address
Their occupation

After 'With notice to be the Welfare Guardian for' just write the name of the person who requires a Welfare Guardian

Name and address of the proposed Welfare Guardian

Form PPR 8

r 406

Form PPR 8
Application for appointment of welfare guardian
Section 12, Protection of Personal and Property Rights Act 1988

In the Family Court
 at **Select the court closest to where the person who needs a Welfare Guardian lives**
[place]

..... **Name of the person applying to be the Welfare Guardian**
[full name]

..... **Their address**
[address]

..... **Their occupation**
[occupation]
 Applicant

..... **Name of the person who requires a Welfare Guardian**
[full name]

..... **Their address**
[address]

..... **Their occupation**
[occupation]

Person the 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.]

With notice to be the Welfare Guardian for
 [] **After 'With notice to be the Welfare Guardian for' just write the name of the person who requires a Welfare Guardian**

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

[] **Name and address of the proposed Welfare Guardian**

2

[Note: This form may be used only if the applicant seeks the order in respect of some other person.]

I, **Name of the person applying to be the Welfare Guardian**
[full name]
 apply for an order appointing a welfare guardian for

..... **Name of the person who requires a Welfare Guardian**
[name of the person in respect of whom the application is made]
 in relation to the following aspect(s) of his (or her) personal care and welfare:
[specify each aspect of that person's personal care and welfare for which you seek the appointment of a welfare guardian]

[] **Write something like: To oversee their health related issues, daily activities and living arrangements**

This application is made on the grounds that—

(a) **Name of the person who requires a Welfare Guardian**
[name of the person in respect of whom the application is made]
 wholly lacks the capacity to make or to communicate decisions relating to the aspects of his (or her) personal care and welfare specified above; and

(b) the appointment of a welfare guardian is the only satisfactory way to ensure that appropriate decisions are made relating to the aspects of his (or her) personal care and welfare specified above.

Form PPR 8 *continued*

3

Check only one box

I make this application in my capacity as—
[select and complete the option that applies]

(a) a
[specified relative]

of
[name of the person in respect of whom the application is made]

(b) the attorney of

[name of the person in respect of whom the application is made]

(c) a social worker employed by the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989.

(d) a medical practitioner.

(e) a representative of

[name of group]
 being a group that is engaged, otherwise than for commercial gain, in the provision of services and facilities for the welfare of persons in relation to whom the Court has jurisdiction in accordance with section 6 of the Act.

(f) the superintendent (*or* licensee *or* supervisor *or* other person in charge) of

[name of institution]
 being the hospital (*or* home *or* other institution) in which

[name of the person in respect of whom the application is made]
 is a patient (*or* resident).

(g) the manager of the property of

[name of the person in respect of whom the application is made]

(h) a person granted leave of the Court to make this application.

Usually it is mum, dad or other relative applying, write here the relationship

Name of the person who requires a Welfare Guardian

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Check only one box in section 1. Almost always the top one

I say:
[select and complete the option that applies]

1.
[name of the person in respect of whom the application is made]
 is of or over the age of 18 years.
or

1.
[name of the person in respect of whom the application is made]
 is under the age of 18 years and is (*or* has been) married *or* in a civil union.
or

1.
[name of the person in respect of whom the application is made]
 is under the age of 18 years, has never been married [*or* in a civil union], and has no parent or guardian living (*or* in regular contact) with him (*or* her).

[select and complete paragraphs 2 and 3 below if they apply and the proposed appointee is name in the application]

2. The proposed appointee is
Check
[full name]
 of
[address]

[address]

[occupation]

3. The proposed appointee is of or over the age of 20 years.
Check

Name of the person who requires a Welfare Guardian

Name of the person applying to be the Welfare Guardian
 Their address

Their occupation

Form PPR 8 *continued*

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4. [Set out sufficient information to inform the Court of the facts relied on to support the application. If you have any medical, psychiatric, or other reports that you wish the Court to consider, attach them to the application.]

Write here the details of the persons disability and health related conditions then write 'Please refer to the medical report'.

.....
Signature of applicant

Sign and date, does not need to be witnessed.

.....
Date

6

Notes

Advice

If you need help, consult a lawyer or contact a Family Court office immediately.

Office hours

The office of the Family Court is open from 9.00 am to 5 pm on Mondays to Fridays inclusive.

Information sheet

A duly completed information sheet (in form PPR 14) must accompany this application.

Meaning of the term relative

The term relative, in relation to any person, means—

- (a) the spouse, civil union partner, or de facto partner of that person; and]
- (b) a parent or grandparent of that person, or of the spouse or other person referred to in paragraph (a); and
- (c) a child or grandchild of that person, or of the spouse or other person referred to in paragraph (a); and
- (d) a brother or sister of that person, or of the spouse or other person referred to in paragraph (a), whether of full-blood or of half-blood; and
- (e) an aunt or uncle of that person, or of the spouse or other person referred to in paragraph (a); and
- (f) a nephew or niece of that person, or of the spouse or other person referred to in paragraph (a).

Number of welfare guardians

The Court must not appoint more than 1 welfare guardian for any person unless, in the exceptional circumstances of the case, the Court is satisfied that it would be in the interests of that person to do so.

Wishes of the person in respect of whom the application is made

So far as is practicable in the circumstances, a Court must ascertain the wishes of the person in respect of whom the application is made when determining whom to appoint as welfare guardian.

Periodic reviews of order

If the Court makes an order, it will be required to specify in it a date by which the welfare guardian must apply to the Court for a review of the order. That date cannot be later than 3 years after the date of the order.

Form PPR 14

rr 20(1)(b), 406

Form PPR 14
**Information sheet to accompany applications under
 Protection of Personal and Property Rights Act 1988**

In the Family Court FAM No:

at
[place]

This information sheet accompanies application(s) in respect of

[full name of person in respect of whom application is made]

[occupation]

Home address:

Work address

Contact telephone number(s):
 [home] work]

Age:

Date of birth:

Gender:

Country of residence:

Ethnic group: [please select the box or boxes which apply]

- New Zealand European
- Maori
- Samoan
- Cook Island Maori
- Tongan
- Niuean
- Chinese
- Indian
- Other (Dutch, Japanese, Tokelauan, etc)

Please state:

This form must be printed on yellow paper for the Judge

Select the court closest to where the person who needs a Welfare Guardian lives

Name of the person who requires a Welfare Guardian and their details

2

Interpreter required:
[select the option that applies]

Yes
 No

If yes, specify language:

Name and address of the lawyer of the person in respect of whom the application is made:
 N/A

Nature of applications
 The applications are:

1. Welfare Guardianship Order

2.

Particulars of applicant
 The applicant is

[full name]

[occupation]

Home address:

Work address:

Contact telephone number(s):
 [home] [work]

Country of residence:

Capacity in which the application is made (as set out in the application):

Particulars of other persons or organisations affected
 The following person(s) or organisation(s) may be affected by this application:

Full name:

Address:

Occupation:

If English is their second language then tick 'Yes' and specify, otherwise leave the 'No' ticked

Because you are applying yourself you don't have a lawyer acting on your behalf

Already filled for you

Name of the person applying to be the Welfare Guardian and their details

Put your relationship and 'Proposed Welfare Guardian. Example: Mother and proposed Welfare Guardian

Put the name of any organisation or person who would need to know about the application. Example: Spectrum Care Trust

Form PPR 14 *continued*

3

The following person(s) or organisation(s) may be affected by this application:

Full name:

Address:

Occupation:

Put the name of any organisation or person who would need to know about the application. Example: Spectrum Care Trust

The following person(s) or organisation(s) may be affected by this application:

Full name:

Address:

Occupation:

Put the name of any organisation or person who would need to know about the application. Example: Spectrum Care Trust

The following person(s) or organisation(s) may be affected by this application:

Full name:

Address:

Occupation:

Put the name of any organisation or person who would need to know about the application. Example: Spectrum Care Trust

Relationship or status in relation to the person in respect of whom the application is made (eg, spouse or civil union partner or de facto partner or parent or guardian or person with whom that person is living or proposed welfare guardian or proposed manager or welfare guardian or manager):

[specify]

.....

Address for service

The accompanying applications are filed by

.....
[full name]

whose address for service is

.....
[address]

Put your relationship and 'Proposed welfare Guardian. Example: Mother and proposed Welfare Guardian

Name of the person applying to be the Welfare Guardian

Their address

This address must be a place in New Zealand where any document may be left for the applicant. It may not be the address of a Post Office box, document exchange, or rural delivery.

4

Previous applications:

[give the file number of any previous applications relating to the person in respect of whom the application is made, and the Courts where those applications were filed]

[Empty box for previous applications]

If there have been previous applications for guardianship put the FAM number here. If none write: N/A

For Court use:

Date stamp:

Form PPR 16

r 410(1)

Form PPR 16
Statement of consent to appointment as welfare guardian
Section 12(5)(d), 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 the 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.]

With notice to be the Welfare Guardian for

This document is filed by

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

Select the court closest to where the person who needs a Welfare Guardian lives

Name of the person applying to be the Welfare Guardian
Their address
Their occupation

Name of the person who requires a Welfare Guardian
Their address
Their occupation

After 'With notice to be the Welfare Guardian for' just write the name of the person who requires a Welfare Guardian

Name and address of the proposed Welfare Guardian

2

I,
[full name of the proposed welfare guardian]

of
[address]

.....
[occupation]

consent to be appointed under section 12 of the Protection of Personal and Property Rights Act 1988 as a welfare guardian for

.....
[full name of the person in respect of whom the application is made]

in relation to the aspect (or aspects) of the personal care and welfare of that person that the Court specifies in the order.

Dated
[date]

Signed by the above-named,

[full name of the proposed welfare guardian]

in the presence of—

Signature of witness:

Address:

Occupation:

Name of the person applying to be the Welfare Guardian
Their address
Their occupation

Name of the person who requires a Welfare Guardian

This section needs to be signed and dated by the proposed Welfare Guardian in front of a Justice of the Peace, Lawyer or court registrar.

Affidavit

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 FAM No:

at [place] Select the court closest to where the person who needs a Welfare Guardian lives

..... [full name] Name of the person applying to be the Welfare Guardian

..... [address] Their address

..... [occupation] Their occupation

Applicant

..... [full name] Name of the person who requires a Welfare Guardian

..... [address] Their address

..... [occupation] Their 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.]

With notice to be the Welfare Guardian for

After 'With notice to be the Welfare Guardian for' just write the name of the person who requires a Welfare Guardian

This document is filed by

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

Name and address of the proposed Welfare Guardian

2

I, [name] Name of the person applying to be the Welfare Guardian

of [address] Their address

..... [occupation] Their occupation

swear (or affirm)

- 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").
- My relationship with the person is as follows: Relationship eg: 'Mother and proposed Welfare Guardian'
- I am aged twenty years or over.
- 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 exceptional circumstances exist for 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.

Tick the Welfare Guardianship Order box when it is a first application. If a renewal then tick the second box and fill in the details

Affidavit *continued*

3

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 20 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 20 years refer to s.12(3) of the Act and set out reasons]

If the person who requires a Welfare Guardian is under 20 years old, state why they need a guardian here. If they are over 20 years put N/A

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:

4

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

Place the details of the person's disability and health related issues. Then write 'Please refer to medical report'

Affidavit *continued*

5

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]

If the person is under a mental health Order tick the second box, and if under assessment for mental health issues tick the third box. If no mental health issues then tick the first box

Put organisations such as Spectrum Care if receiving services from us. Also close relatives that might need a copy or other agencies involved in the person's life

If the person applying to be the guardian is the closest living relative then you most likely won't need consents. Otherwise get consents from relevant close family. You may also need one from Spectrum Care if the person lives in our residential service

6

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]

If the person is accessing Spectrum Care Services then write: 'Advocacy Services—Spectrum Care Trust Board'. Name all others you think should receive a copy of the papers

Tick this box and state something like 'the person would not understand the meaning of the documents'

It is very unlikely that there will be a court appearance, but you can tick this box and state something like: 'they would find the proceedings confusing'

Affidavit *continued*

7

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]

State here why you are the best person to be appointed as the Welfare Guardian. Things like: I know them better than anyone, they trust me, I only ever have their best interests at heart'

8

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]

It is unlikely that there will be any costs associated with being the Welfare Guardian so just write 'Nil'

Affidavit *continued*

9

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]

You only need to tick this box and fill it in if there is an immediate need for an Order due to an urgent decision that needs to be made. Otherwise write 'N/A'

Sworn (or Affirmed) at *[place]*

this day of 200

before me.

Sign and date in front of a Justice of the Peace, lawyer or Court Registrar. Ensure you initial each page too

.....
Applicant

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

10

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]