



Guardianship (Missing Persons) Act 2017

2017 CHAPTER 27

Guardianship orders

4 Choice of guardian

- (1) The court may only appoint a person as a guardian in respect of property or financial affairs of a missing person if it is satisfied that the person—
 - (a) is an individual aged at least 18 or a trust corporation (as defined in section 68 of the Trustee Act 1925),
 - (b) consents to the appointment,
 - (c) is suitable to act as the guardian of the property or financial affairs, and
 - (d) if appointed, will act in the missing person's best interests (see section 18).
- (2) For the purposes of determining whether a person ("the proposed guardian") is suitable to act as the guardian of property or financial affairs, the court must, among other things, have regard to—
 - (a) the proposed guardian's relationship with the missing person;
 - (b) the missing person's views on the proposed guardian, so far as they are known to, or reasonably ascertainable by, the court;
 - (c) whether the proposed guardian has the skills and knowledge necessary to carry out the functions proposed to be conferred on the proposed guardian by the guardianship order;
 - (d) any conflict between the proposed guardian's interests and the missing person's interests.
- (3) For the purposes of determining whether there is a conflict between the proposed guardian's interests and the missing person's interests, the court must, among other things, consider—
 - (a) any connection between the proposed guardian's property and financial affairs and the missing person's property and financial affairs, and
 - (b) how any such connection might affect the taking of decisions by the proposed guardian if appointed.

Status: This is the original version (as it was originally enacted).

- (4) There is not a conflict between the proposed guardian's interests and the missing person's interests merely because the proposed guardian—
 - (a) is the missing person's spouse, civil partner, parent, child, sibling or other relative,
 - (b) was living with the missing person immediately before that person became a missing person, or
 - (c) may benefit from being appointed as guardian, whether directly or indirectly.
- (5) The court may make a guardianship order appointing a person as a guardian whether or not the person is proposed in the application for the order.