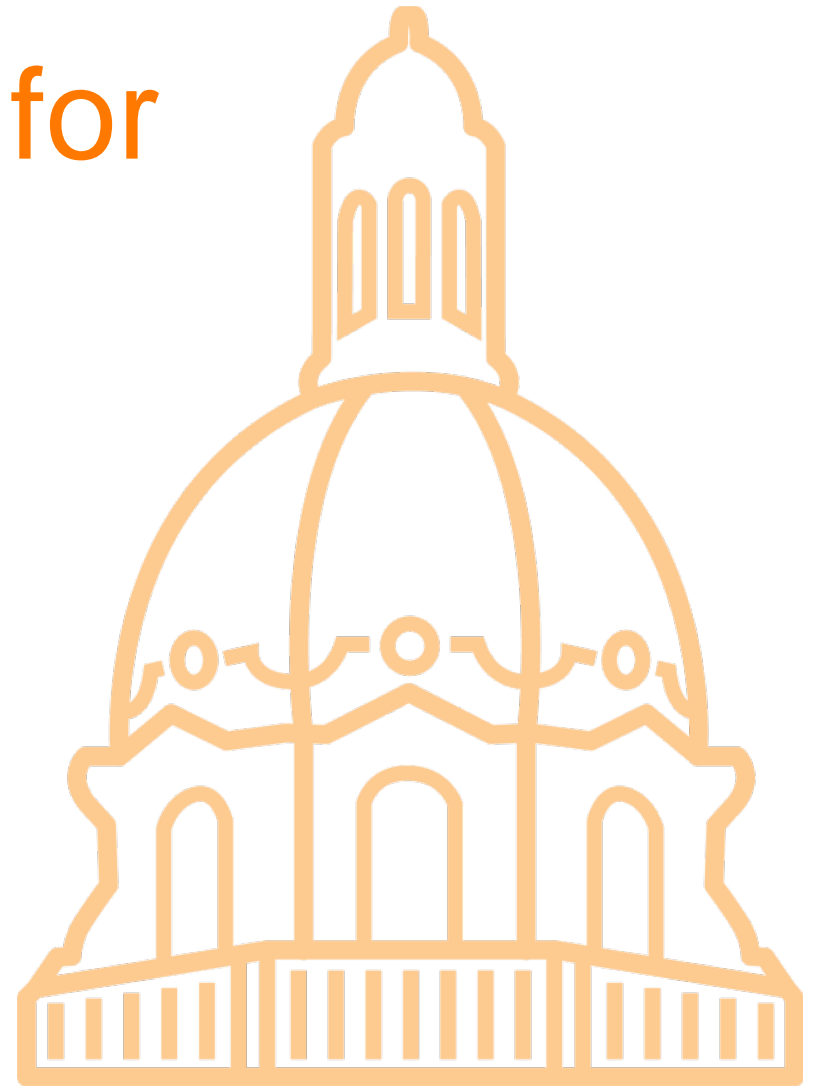


# Guide to applying for Guardianship and Trusteeship

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How to complete the application forms

Office of the Public Guardian and Trustee  
January 15, 2021



# Important

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## Disclaimer

The information in this guide is not legal advice. The information provided in this guide is solely for the user's information and convenience and, while thought to be accurate and functional, it is provided without warranty of any kind. Further, if there is any inconsistency or conflict between any of the information contained in this guide and the applicable legislative requirement, the legislative requirement shall prevail. Her Majesty the Queen in right of Alberta, her agents, employees or contractors will not be liable to you for any damages, direct or indirect, arising out of your use of the information contained in this guide. This guide is current to January, 2021. The law is constantly changing with new legislation, amendments to existing legislation, and decisions from the courts. Please consult an Alberta lawyer or other relevant professionals for further advice.

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# Process and forms

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**Do not use this guide unless the application is for both guardianship and trusteeship.**

The processes and forms referred to in this guide are found on our website:

- Information for guardianship - <https://www.alberta.ca/adult-guardianship.aspx>
- Information for trusteeship - <https://www.alberta.ca/trusteeship.aspx>

Forms required to apply for both guardianship and trusteeship:

- Capacity Assessment Report - Form 4
- Application - Form 14
- Affidavit of Applicant - Form 15
- Guardianship Plan - Form 32
- Trusteeship Plan - Form 34
- Consent of Guardian - Form 24
- Consent of Alternate Guardian - Form 26 (if applicable)
- Consent of Trustee - Form 27
- Consent of Alternate Trustee - Form 29 (if applicable)
- Inventory - Form 37
- Personal References - Form 30

# Capacity Assessment Report - Form 4

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# Capacity Assessment Report (CAR) - Form 4

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The Capacity Assessment Report (CAR) is completed by a physician, psychologist or a registered capacity assessor.

Item 13 will indicate what areas of decision making you will be applying for in your application.

The legislation requires that the CAR – Form 4 must not be dated more than 6 months before the date the application is submitted.

If you are using an older CAR, explain why you are not using a current report and request the court to accept the older report:

- See Application - Form 14, item 10.2.
- Pick Yes and include the explanation.

# Application - Form 14

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# Application - Form 14

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## First page

- Court File Number - leave blank.
- Judicial Centre drop-down selection - pick the centre closest to where the adult lives.
- Adult's Full Name – The adult is the person you want to represent. Fill in their full legal name. **Use the same full name on all the required documents.**
- Applicant's Name – You are the applicant. Fill in your full legal name. **Use the same full name on all the required documents.**
- Applicant's Address for Service – if you are completing the application without the assistance of a lawyer, check the box next to the first '*This section is not applicable to this application*' and enter your mailing address in the section for a '*Non Lawyer Application*'.

## Sections

- 1.1 Unless you want a hearing in court, choose desk.
- 1.2 Check the boxes next to appointment of guardian(s) and appointment of trustee(s).
- 1.3 Drop-down selection. Pick your relationship to the adult.
2. Information about the adult – Fill out this section. Only fill out the present address if it is different than the permanent address (for example, the adult is currently in a hospital).

# Application - Form 14 (cont'd)

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- 3.1 If the answer is Yes, check the box(es) that apply and fill in the next review date, if known.
- 3.2 On this application a 'decision-maker' is a legal term. These are legally recognized decision-makers: guardians, trustees, co-decision makers, and supporters.
- Click the Add Name button to enter information for each additional person, if needed. Include mailing addresses and email addresses for everyone listed in this section. Indicate the current, if applicable, and proposed position(s) for each person. If No was checked in 3.1, everyone listed will be proposed.
- 3.3 If needed, click the Add Attorney button for every attorney listed on the adult's enduring power of attorney.
- 3.4 If needed, click the Add Agent button for every agent listed on the adult's personal directive.
- 4.1 If needed, click the Add Family Member button for every living family member over 18 if they match a category.
- 4.2 Complete if applicable.
- 4.3 If needed, click the Add Name button for each interested person to be given notice of this application.
- 5.1 This section does not appear unless the application is for a review.
- 5.2 Review Item 13 of the Capacity Assessment Report and indicate the personal matters you are proposing to apply for decision-making authority.



# Application - Form 14 (cont'd)

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5.3 This section is about having more than one guardian (not including alternate guardians):

- If there is only one proposed guardian, check Not Applicable.
- Check No if there is more than one guardian and you want the guardians to be able to act separately on all personal matters.
- Check Yes if you want:
  - The guardians to make decisions jointly in one or more of the areas of authority **or**
  - One of the guardians would be the decision-maker in one or more specific area of authority and the other guardian(s) would be responsible for other areas.

5.4 The assessor who completed the Capacity Assessment Report may have suggested a review period. This would be indicated in Item 14 of the report.

- If you do not feel a review is necessary, then check off the last box and ensure your affidavit explains why a review isn't needed.

# Application - Form 14 (cont'd)

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- 6.1 This section does not appear unless the application is for a review.
- 6.2 If granted, a trusteeship order applies to all of the represented adult's real and personal property within Alberta. This area of the form is asking you to indicate if you are asking the court to give any special authority or direction or to impose restrictions or conditions on your authority beyond what would be typical in a trusteeship order. If you check Yes, check the appropriate boxes and provide the indicated information which applies to your circumstances.
- NOTE:** If there will be 2 or more trustees (not including alternate trustees), they will be required to act jointly unless a request to authorize the trustees to act separately is made in Item 6.2.
- 6.3 The assessor who completed the Capacity Assessment Report may have suggested a review period. This would be indicated in Item 14 of the report.
- If you do not feel a review is necessary, then check off the last box and ensure your affidavit explains why a review isn't needed.
- 6.4 The court has discretion to require a trustee to submit accounts for examination and approval within a specified period of time
- If you do not feel an accounting is necessary, then check off the last box and ensure your affidavit explains why an accounting isn't needed.

# Application - Form 14 (cont'd)

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7. This section is not applicable for a first-time application for guardianship and trusteeship.
- 8.1 Check all that apply.
- If you intend to submit the Inventory - Form 37 after the order is granted, then you will need to check off '*Undertaking of Trustee(s) to file inventory after appointment.*' The inventory must be submitted to the court within six months after the order is granted.
- 8.2 Check the second box. Each proposed guardian, alternate guardian, trustee and alternate trustee is required to complete a Personal References – Form 30.
9. This section is about sending notification letters to everyone listed on the application.
- Check '*This section is not applicable to the application*' if notification letters can be sent to all people listed on the application – as usually happens when an application is received. Go to section 10.
  - Do not check '*This section is not applicable to the application*' if – for some reason – you are asking the court to **not** notify a person or persons listed on the application. Complete sections 9.1 and/or 9.2. You will need to explain your reasons in your affidavit.

# Application - Form 14 (cont'd)

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10.1 Indicate how the costs of the application will be paid.

- Include a court filing fee of \$250.00, in the form of a cheque or money order payable to 'Government of Alberta', unless you are requesting that the costs be paid by the Crown.
- The Crown in right of Alberta may agree to pay a specified amount and reasonable disbursements towards the costs associated with the application if paying the costs is a financial hardship for the adult or the applicant. Provide proof of the hardship in the "Costs" section of your affidavit.

10.2 Complete this item if you have a special request you are making, such as accepting an older Capacity Assessment Report. If you do not have a special request, select No.

**Only the applicant is required to sign this form.**

# Affidavit - Form 15

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# Affidavit - Form 15

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Enter the same information on the top section of the first page that was entered on your application form including the name and address of the applicant.

If you object to swearing an oath for religious reasons, you can affirm that the contents of the affidavit are true. Click on the drop down arrow next to the word 'swear' and select 'affirm'.

## Sections

1.1 Check this box and the boxes next to Guardian and Trustee.

1.2 Do not check any boxes in this section.

1.3 This is a statement that you will be required to swear or affirm to. No response is needed.

2.1 This is a statement that you will be required to swear or affirm to. No response is needed.

2.2 – 2.6 These sections are required – fill out as directed.

3.1 This is a statement that you will be required to swear or affirm to. No response is needed.

3.2 – 3.7 These sections are required – fill out as directed.

Sections 4 through 10 will not be applicable for a first-time application for guardianship and trusteeship.

# Affidavit - Form 15 (cont'd)

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- 11 - 13 Complete any of these sections if they are applicable to your application. Otherwise check '*This section is not applicable to the application*'.
14. A Commissioner of Oaths or Notary Public will need to commission this document. **The applicant signs this document in the presence of a Commissioner of Oaths or Notary Public.** The OPGT staff are available to commission and witness signatures on your documents.

# Guardianship Plan - Form 32

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# Guardianship Plan - Form 32

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Enter the same information on the top section of the first page that was entered on your application form.

Proposed Represented Adult – complete all areas of this section.

Proposed Guardian/Alternate Guardian – click the Add Name button to enter information for each proposed guardian and alternate guardian.

## Sections

1. Enter the date that the Capacity Assessment Report was completed, as indicated on the last page of the report, and refer to Item 13 in the report for the personal matters that the adult needs a guardian.
- 2 – 10 These sections are required – fill out as directed. Some things to keep in mind when completing these sections:
  - As much as possible, the adult should be informed of and included in the decision making process.
  - Guardianship may not always be permanent. For example, a person may recover decision making abilities after a stroke. Think about how you might plan to encourage the adult's independence.
  - When making decisions on behalf of the adult, consideration must be given to the adult's wishes, values and beliefs, if known, and what is in the best interests of the adult.

**All proposed guardians and proposed alternate guardians must sign this form.**

# Trusteeship Plan - Form 34

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# Trusteeship Plan - Form 34

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Enter the same information on the top section of the first page that was entered on your application form.

## **Sections**

1. Click the Add Name button to enter the name and province of residence for each proposed trustee.
2. Click the Add Name button to enter the name and province of residence for each proposed alternate trustee.

Questions on this form have a 'Yes', 'No' or 'Do Not Know' box to be checked. Depending on which you check, you may need to complete a Schedule or provide further information.

## Assets

If the Adult owns land/property, either solely or as a co-owner, then you must complete Schedule 1. If needed, click the Add Property button on Schedule 1 for multiple properties.

If the Adult owns any mineral titles, either solely or as a co-owner, then you must complete Schedule 2. If needed, click the Add Title button on Schedule 2 for multiple mineral titles.

Provide information for all types of accounts and assets and explain how you will deal with the accounts and assets as trustee. If needed, click the Add Account button for multiple accounts and the Add Asset button for multiple assets.

# Trusteeship Plan - Form 34 (cont'd)

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## Liabilities

Provide information for any money the adult owes. If needed, click the Add Creditor button for multiple debts.

## Income and Expenses

For sections 11-17 you may find it useful to have copies of the Adult's bank account statements nearby. Complete Schedule 3 to estimate the Adult's income and Schedule 4 to estimate the Adult's expenses. Answer all questions and provide details as directed.

## Administration of Adult's Financial Matters

Answer all questions and provide additional information as directed.

## Use of Adult's Property for Benefit of Others

Answer all questions and provide additional information as directed.

## Other Matters

Answer all questions and provide additional information as directed.

**All proposed trustees must sign this form.**

# Consent Forms 24, 26, 27 & 29

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# Consent of Proposed Guardian - Form 24

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Each proposed guardian must complete a Consent of Proposed Guardian - Form 24 giving their consent to act as guardian.

Enter the same information on the top section of the first page that was entered on your application form.

Section 1 is completed with the name of the proposed guardian and the name of the adult.

Section 4 needs to be completed.

All other sections are statements that do not require a response.

**Someone must witness the proposed guardian sign the consent form.**

# Consent of Proposed Alternate Guardian - Form 26

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Each proposed alternate guardian must complete a Consent of Proposed Alternate Guardian - Form 26 giving their consent to act as alternate guardian.

Enter the same information on the top section of the first page that was entered on your application form.

Section 1 is completed with the name of the proposed alternate guardian and the name of the adult.

Section 4 needs to be completed.

All other sections are statements that do not require a response.

**Someone must witness the proposed alternate guardian sign the consent form.**

# Consent of Proposed Trustee - Form 27

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Each proposed trustee must complete a Consent of Proposed Trustee - Form 27 giving their consent to act as trustee.

Enter the same information on the top section of the first page that was entered on your application form.

Section 1 is completed with the name of the proposed trustee and the name of the adult.

Sections 3, 4 and 5 need to be completed.

All other sections are statements that do not require a response.

**Someone must witness the proposed trustee sign the consent form.**

# Consent of Proposed Alternate Trustee - Form 29

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Each proposed alternate trustee must complete a Consent of Proposed Alternate Trustee - Form 29 giving their consent to act as alternate trustee.

Enter the same information on the top section of the first page that was entered on your application form.

Section 1 is completed with the name of the proposed alternate trustee and the name of the adult.

Sections 3 and 4 need to be completed.

All other sections are statements that do not require a response.

**Someone must witness the proposed alternate trustee sign the consent form.**

# Inventory - Form 37

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# Inventory - Form 37

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This form is used to report the inventory – a listing of all assets and liabilities, income and expenses of the Adult as of a specific, recent date.

You may choose to complete and file the inventory after the appointment of the Trusteeship Order. If so, then you will need to indicate this on the Application - Form 14 in section 8.1.

Enter the same information on the top section of the first page that was entered on your application form.

Enter the name and address of each proposed trustee. Click the Add Trustee button for multiple trustees.

Enter the date of the inventory.

You will need to complete Schedules A - F before the summary table on the first page is completed. When completing the form on your computer, the form will do some calculations for you. Some schedules may not apply.

Schedule A – if the adult owns any properties, you need to select Yes and indicate how many properties in the space provided. This will generate the correct number of charts to enter information for each property.

Schedule B – complete Schedules BA and BB. Click on the Add Account and Add Asset buttons for multiple accounts and assets.

Schedule C – click on the Add Other Assets for multiple other assets.

Schedule D – click on the Add Liability for multiple liabilities.

# Inventory - Form 37 (cont'd)

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Schedule E – use the Other spaces to list any sources of the adult’s income that are not already listed.

Schedule F – use the Other spaces to list any of the adult’s expenses that are not already listed.

When you are attaching bank statements, land title documents or other asset documents you must list these as Exhibits. For example, Exhibit “A” could be a bank statement, Exhibit “B” could be another bank statement or a Title of Land, etc. You would place the appropriate exhibit letter (A, B, C, etc.) at the bottom of the Schedule where it is indicated.

A Commissioner of Oaths or Notary Public will need to commission this document. **The proposed trustee(s) sign this document in the presence of a Commissioner of Oaths or Notary Public.** Click the Add Signature button for multiple trustees. The OPGT staff are available to commission and witness signatures on your documents.

# Personal References - Form 30 and BackCheck

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# Personal References - Form 30

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Each proposed guardian, trustee, alternate guardian and alternate trustee must complete one of these forms indicating two personal references who can be contacted for the purpose of obtaining personal information on them. This information will be used by the Review Officer for the purpose of preparing a report for Court regarding their suitability to be a guardian, trustee, alternate guardian or alternate trustee.

Enter the name of the proposed guardian, alternate guardian, trustee or alternate trustee.

Enter the name of the adult.

Check the appropriate box(es) indicating what role(s) the person is going to be appointed as.

Complete the required information for 2 personal references.

**Someone must witness the person signing this form.**

## BackCheck

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All proposed guardians, alternate guardians, trustees and alternate trustees will need to have a Criminal Record Check, Credit Check and a Personal Reference Check completed which **must** be done through Sterling BackCheck. Once you have submitted your application documents to the Office of the Public Guardian and Trustee, instructions on how to proceed with obtaining these suitability checks will be sent to each proposed guardian, alternate guardian, trustee and alternate trustee to their email addresses provided in Item 3.2 of the Application - Form 14.

# Contact Us

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# Office of the Public Guardian and Trustee

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To submit your completed application documents for processing, please contact the Office of the Public Guardian and Trustee closest to where the Adult lives.

Calgary – (403) 297-3364

Edmonton – (780) 427-0017

Grande Prairie – (780) 833-4319

Lethbridge – (403) 381-5648

Lloydminster – (780) 871-6490

Medicine Hat – (403) 529-3744

Red Deer – (403) 340-5165

St. Paul – (780) 645-6278