

Instructions for custodians

I. General matters

When taking over the position of a custodian, you are fulfilling an important civic duty. You are taking over an honorary position, which you have to perform in a conscientious and responsible manner, exclusively in the interests of the protected person.

The statutory stipulations governing custodians are contained in the German Civil Code (Sections 1909 – 1921).

According to Section 1915 of the German Civil Code, the stipulations applying to legal guardianship (Sections 1773 – 1895 of the German Civil Code) also apply. We recommend that you familiarise yourself with these stipulations.

The family court shall supervise your work; it shall advise you in all matters related to your position.

You must provide information to the family court about the way that you are fulfilling your position at any time, if a request is made.

You are responsible towards the protected person (male or female) for any damage that arises from any culpable infringement of your obligations; especially if you neglect to assert any maintenance claims or other claims of the protected person in violation of your duty. You may insure yourself against this risk – the family court will provide you with further details.

Any money belonging to the protected person must be invested so that it attracts interest, if it is not required to cover ongoing expenditure. This should mainly involve investing it in a savings account provided with a blocking note for a ward at a savings bank, which is absolutely safe, or at a different bank, which belongs to a protection scheme that is adequate for the investment, or in an absolutely safe mortgage loan or in absolutely safe securities. The family court may allow you to make a different investment, e.g. with a suitable private bank.

II. Only in the case of custodianship ordered to obtain maintenance payments

You must particularly take note of the following:

1. It is primarily your task to ensure that the parent obliged to make maintenance payments pays the maintenance to his or her child. You must initially demand this in writing from the parent. Maintenance law is covered by Sections 1601 – 1615 of the German Civil Code. The maintenance is governed by the life circumstances of the needy child and, in principle, this covers the complete requirements for the child to live, including the costs of upbringing and vocational training. The law does not prescribe a particular amount. The parent obliged to make maintenance payments is also obliged to do so if his or her own appropriate means of subsistence are impaired as a result. If this occurs, he or she must make use of all the means available to equally apportion his or her and the child's means of subsistence. The amount of the parent's contribution shall also depend on his or her income circumstances in this case.
2. Incoming maintenance payments may only be used for the protected person.
3. If the parent obliged to make maintenance payments does not pay up voluntarily, you must assert the maintenance claim in the name of the protected person through the courts, after having sent a reminder. For this purpose, you may approach the youth office or the local court, which will give you more detailed information, but they may not legally advise you.

III. Only in the case of custodianship for absentees

Within the limits determined by the Court of Protection [Betreuungsgericht] you are obliged to take care of the financial matters of the absent person and are, in so far as your sphere of influence is deemed sufficient, to also represent the absent person.

If the residence of the absent person becomes known at a later point in time and/or the absent person dies, it is necessary to inform the Court of Protection thereof without undue delay.

IV. Ending the custodianship

Your position shall end

- a) on the date on which the curatorship is annulled by the Domestic Relations Court [Familiengericht,] or with the annulment of the curatorship for the absent person by the Court of Protection; furthermore
- b) if the custodianship is for a person in parental care and custody or in a guardianship relationship, once the parental care and custody or guardianship relationship ends,
- c) if the custodianship is for a foetus, then once the child is born,
- d) if the custodianship covers individual circumstances, when they have been completed,
- e) if the custodianship is for an absent person, once the ruling on the declaration of death or the establishment of the time of death becomes legally valid.