

# Information sheet for Legal Custodians

## 1. General information

Within the scope of functions assigned to you it is your duty to ensure the well-being of the person under your care and to represent that person in judicial and extrajudicial matters. Taking over the function as their legal custodian means that their legal capacity and or ability to enter into legal transactions shall remain unaffected thereby.

You are not permitted to represent the person under your care among others in legal transactions or processes with himself/herself in his/her own name, with your spouse, your registered partner in life or with any relatives in a direct line (grandparents, parents, direct descendants). In such a respect it is irrelevant whether you yourself or any third party – representing you – is affected.

A key element of custodianship is the personal contact, in particular personal conversations/meetings with the person under your care. You are recommended to comply with the desires of the person under your care, in so far as possible, unless this is deemed contrary to their welfare.

Within the scope of your functions/duties you are requested to ensure that all options are optimally exploited to eliminate or improve any disease or handicap of the person whose care you are responsible for or to prevent any deterioration thereof resp. to minimise the consequences thereof.

### a) Care for personal affairs

Care for personal affairs encompasses in particular the care for health, whereabouts and organisation resp. way/structuring of their life.

### b) Care for wealth-related affairs

Care for wealth-related affairs obliges you to manage the person's wealth with due care taking the wishes of the person(s) under your care appropriately into account. According to the situation the person's wealth resp. assets shall be invested economically, profitably and as a matter of routine wisely in assets that are currently perceived as low risk.

## 2. Approval of the District Court [Amtsgericht]

For especially important affairs, you shall require the approval of the District Court [Amtsgericht], in particular, in the following cases, namely:

1. For the purpose of admitting the person(s) under your care to a closed establishment (for example, psychiatric hospital) or closed division of an institution on the grounds of risk of self-endangerment or need for examination and/or treatment,
2. For measures similar to that of the person's regular accommodation in an institution, home or any other open establishment, if the person under custodianship is to be

deprived of his/her liberty (for example by mechanical devices, medical drugs or in any other way for a longer period of time or regularly),

**Note re. 1. and 2.:** Accommodation or the measures similar to such in an institution, home or any other open establishment shall be discontinued once their prerequisites therefor are no longer deemed to be given.

3. For agreeing to an examination of the person's health condition, for a therapy or medical intervention, if there is a substantiated risk that the person under custodianship would otherwise pass away on the grounds of the measure or might suffer a severe or longer-lasting damage to his/her health, unless the postponement is associated with a risk or if the custodian and treating physician agree that granting, non-granting or revoking approval complies with the ascertained will of the person under custodianship pursuant to Section 1901a of the German Civil Code (Patient's Will) [BGB; Bürgerliches Gesetzbuch (Patientenverfügung)],
4. For terminating an agreement for rented home or for other declarations associated with the abandonment of a rental relationship (for example the termination of a rental lease signed with the landlord) – **in this case you will require the approval prior to terminating the agreement!** – (see below „Unilateral legal transaction“),
5. For a rental or lease agreement, if the contractual relationship is to last longer than four years or if a residential property is to be rented by you,
6. For legal transactions concerning real estate (condominium, building lease) or an interest in land, for example, pertaining to the purchase or sale of real estate and encumbrance of real estate with real property liens (mortgage, land charge),
7. For the purpose of waiving the right to succession or legacy and to an agreement on the settlement of an estate,
8. For the purpose of disposing of a claim (for example, acceptance of a life assurance amount that has become due, cancellation of bank accounts, in the individual case for the purpose of withdrawing amounts from an account),
9. For the purpose of taking up a loan on behalf of the person(s) under your care,
10. For the purpose of a settlement or an arbitration agreement if the value of the matter in dispute exceeds 3,000.00 €. (This regulation shall not apply if a court has proposed or recorded a settlement in writing.)

This list is not deemed to be complete. In any case of doubt, it is recommended to contact the District Court [Amtsgericht] for further information.

**A contract** which is concluded without obtaining the necessary approval is initially deemed to be invalid. It is necessary to subsequently obtain the approval required and to notify the contract party thereof. This ensures that the agreement will take effect. It is not sufficient for the contract party to be informed of the approval by a third party.

**A unilateral legal transaction** (for example termination) requiring approval; such only takes effect if the previous approval by the District Court [Amtsgericht] is obtained.

### 3. General duties

You are requested to inform the District Court [Amtsgericht] at least once per year concerning the personal situation of the person(s) under your care.

In the case of care for wealth-related affairs, the custodian is required to render account on an annual basis. By doing so, the receipts and expenditures shall be composed in an orderly sequence and furnished with documents in concern in so far as such are normally provided. The receipts shall be furnished with the consecutive number according to which the transaction is listed in the accounting.

If any circumstances become known to you which would substantiate a suspension or limitation of custodianship or would require an extension thereof or a reservation of consent, the District Court [Amtsgericht] shall be informed thereof.

The same shall apply if measures concerning the person(s) under custodianship in an institution, home or another establishment without being accommodated there are terminated without the District Court [Amtsgericht] being informed thereof.

If your scope of duties comprise the rental relationship or the determination of the person's whereabouts, the District Court [Amtsgericht] shall be informed thereof without undue delay, if circumstances arise which mean that a termination of the rental agreement would come into question.

Please inform the District Court [Amtsgericht] of any change of address.

The District Court [Amtsgericht] will supervise your activities and offer you advice and support, in particular if you face difficulties in connection with performing the custodianship.

The supervisory authority (administrative district and/or urban municipality) furthermore advises and supports you as necessary in performing your duties.

Custodianship is regulated in the manner described in Sections 1896 to 1908i German Civil Code [BGB; Bürgerliches Gesetzbuch].