



FORM AG3 (February 2020 revision)

## **COVERSHEET AND GUIDELINES FOR REPORT BY MEDICAL PRACTITIONER OR OTHER HEALTH PRACTITIONER**

*Guardianship of Adults Act 2016*

### **SECTION A - PERSON WHO IS THE SUBJECT OF THE GUARDIANSHIP APPLICATION (‘THE ADULT’)**

File Number:

First Name/s:

Surname:

Date of Birth:

### **SECTION B - YOUR DETAILS**

First Name/s:

Surname:

Postal Address:

E-mail:

Landline Phone:

Mobile Phone:

### **SECTION C - YOUR RELEVANT PROFESSIONAL QUALIFICATIONS**

*[Here set out a short statement of the training and/or experience that mean you are qualified to express the opinions in the attached report. You may, instead, include such a statement in the report.]*

### **SECTION D – DETAILS OF PERSON WHO REQUESTED YOUR REPORT**

First Name/s:

Surname:

Organisation (if applicable):

Postal Address:

E-mail:

Landline Phone:

Mobile Phone:

## SECTION E – DECLARATION

I \_\_\_\_\_ declare that:

- I have prepared the attached report having considered the guidelines below; and
- I have mentioned in the report all matters known to me that I believe may be relevant to NTCAT's assessment whether the adult has impaired decision-making capacity.

Date: \_\_\_\_\_

Signature \_\_\_\_\_

## GUIDELINES

### Overview

You have been requested to provide an expert opinion to assist NTCAT in determining whether guardianship orders should be made for the adult.

These guidelines are designed to assist you in the preparation of your report. The guidelines:

- identify the issues NTCAT must consider in reaching a decision whether a person requires a guardian; and
- include suggestions regarding the structure your report should take.

This document is also intended to act as a coversheet for your report. You will need to fill out sections A to E above and attach the completed document to your report.

### Impaired Decision Making Capacity

NTCAT may only make a guardianship order for an adult if satisfied that the adult has 'impaired decision-making capacity'. That expression is defined in the *Guardianship of Adults Act 2016* as follows:

#### Meaning of '*decision-making capacity*' and '*impaired decision-making capacity*'

- (1) An adult has **decision-making capacity** if the adult has the capacity to:
  - (a) understand and retain information about the adult's personal matters and financial matters; and
  - (b) weigh the information in order to make reasoned and informed decisions about those matters; and
  - (c) communicate those decisions in some way.
- (2) An adult is presumed to have decision-making capacity until the contrary is shown.

- (3) An adult has impaired decision-making capacity if the adult's decision-making capacity is impaired.

The definitions of 'personal matters' and 'financial matters' are in largely self-explanatory terms and include the following examples:

**personal matters:** accommodation; health care; the provision of care services to the adult; employment; education and training; day to day living matters, such as diet and daily activities; and relationships with other people, including decisions about who may or may not visit the adult.

**financial matters:** receipt and payment of money; banking; property (including real estate) ownership; investment and management of assets; carrying on a trade or business; and insurance.

Decision-making capacity may be impaired for the purposes of the Act even if the impairment fluctuates, varies in extent, or relates to certain matters only. In such cases, NTCAT may need to 'tailor' any guardianship order so as to properly reflect the nature and extent of the impairment.

### Expert Evidence and the Assessment of Decision-Making Capacity

NTCAT will usually rely upon evidence from a number of sources in reaching a decision whether an adult has impaired decision-making capacity. The type and quantity of available evidence is likely to vary according to the affected adult's particular circumstances.

Apart from observational evidence (for example in the form of carers' reports or evidence of family members), expert opinion evidence will usually be essential to any assessment of decision making capacity.

From NTCAT's point of view, the critical considerations in evaluating expert opinion evidence regarding decision-making capacity are these:

- whether the expert has training or experience that means he or she is qualified to express an opinion regarding the adult's decision making capacity; and
- whether the expert has clearly identified the basis for his or her opinion including any matters that might affect the reliability of that opinion.

The level of training and expertise required of an expert, as well as the level of detail NTCAT will wish to see in a report, is likely to vary. For adults affected by unusual conditions, or in cases where an adult's capacity may be impaired in particular respects only, there is likely to be a greater requirement for specialist expertise and detailed analysis.

### Your report

NTCAT does not insist that your report follow a particular form.

You should, however, ensure that your report includes:

- details of the **consultations, tests and investigations** undertaken in relation to the adult;
- your **diagnosis** or assessment based on those consultations, tests and investigations;

- an **explanation** of the way/s (if any) in which the diagnosed condition/s affects the adult's ability to:
  - (a) understand and retain information about the adult's personal matters and financial matters; and
  - (b) weigh the information in order to make reasoned and informed decisions about those matters; and
  - (c) communicate those decisions in some way.
- a **forecast**, including having regard to the adult's prognosis, of whether those effects are likely to continue, worsen or abate;
- identification of any matters that might affect the **reliability** of the conclusions you have drawn; and
- a statement of your **qualifications** (if not already set out in section C above).

If you wish, you could use the words in bold text above as subject headings for your report.

**PLEASE ATTACH YOUR REPORT FOLLOWING THIS PAGE.**