

Checklist for adult representation

Germany – Status: October 2025

Legal guardianship supports adults who, due to illness or impairment, are no longer able to manage their affairs themselves, either in whole or in part. Since a reform in 2023, the guideline of "support before representation" has been formulated even more clearly in the law: Self-determination is expressly strengthened, and the wishes of the person concerned must be given priority.

Accordingly, a power of attorney takes precedence over a guardianship order:

- A **power of attorney** (and, if applicable, a **guardianship order**) takes precedence over court guardianship. **Any person who is capable of giving consent and has legal capacity can authorise someone else in advance to manage their affairs.** This power of attorney is very easy to set up and does not require a solicitor/lawyer or registration.
- Only if these arrangements no longer cover everyday life or if there is no power of attorney does the **guardianship court** (local court) appoint a guardian. The court only establishes guardianship **to the extent necessary** (principle of necessity). It defines **specific areas of responsibility** (e.g. health care, asset management, determination of residence, housing matters). The person concerned is heard in person, and guardianship can be implemented by relatives, volunteers, professional guardians or guardianship associations.

Guardianship **does not automatically** mean **legal incapacity**, and this also applies to people with dementia. Only in exceptional cases can a **reservation of consent** be ordered (in which case certain declarations are only effective with the guardian's consent), for example to avert significant dangers to a person and their assets.

Guardianship must be reviewed regularly, and the court must decide on its termination or extension **after seven years** at the latest. If guardianship was ordered **against the declared will** of the person, it must be reviewed for the first time **after two years**. The **guardianship court** and **guardianship authority** are responsible for this.

Local support centres are being set up to provide a kind of preliminary assistance. These are often located at the district office or city council and help to coordinate (e.g. temporary) care. This means that legal guardianship is not immediately required if all that is needed is support in developing the right support structures in a person's environment.

Where can I find advice on adult representation?

- Information from the Ministry of Justice: <https://www.bmjb.de>
- Information from Betreuungsgerechtstag e.V. (Professional Association of Guardianship Courts): www.bgt-ev.de
- Information from the Federal Association of Professional Guardians (BdB): <https://www.berufsbetreuung.de>

Guide for orientation:

Orientation starts locally (guardianship authority/guardianship association), legal proceedings are conducted through the local court, and reliable basic information on the regional situation is provided by local guardianship associations and brochures/websites of the Ministry of Social Affairs of the respective federal state.

1. **Local guardianship authority/guardianship office**
First point of contact locally: Provides advice, examines alternatives (e.g. power of attorney), supports volunteers and coordinates with care services. The federal states determine which office is responsible (usually the city/district office).
Search term for Google: "Care authority + [location]"
2. **Find the responsible guardianship court (local court)**
The **guardianship court** at the place of residence of the person affected is responsible for establishing or changing guardianship. The correct local court can be found by searching for the postal code.
3. **Local guardianship associations (Caritas, Diakonie, Lebenshilfe, etc.)**
These associations advise those affected, relatives and (future) voluntary guardians, and offer training and support. Search term for Google: "guardianship association + [location]".
4. **Federal/state – basic information & brochures**
The **Federal Ministry of Justice** provides concise overviews and a detailed **brochure** (including a sample power of attorney - see link above). Many federal states have also published FAQs concerning the 2023 reform.

Mini checklist for the first meeting

- **Clarify your concerns:** Support vs. representation – what is really needed?
- **Documents:** Identity card, existing advance care directives and guardianship orders, medical reports (if available).
- **Points of contact:**
 - Guardianship authority → Orientation
 - Guardianship association → Advice/training
 - Magistrates' court → Proceedings

Important note: This checklist is for general guidance only and does not constitute legal advice. Individual cases require consultation with the guardianship authority, guardianship court or specialist solicitor/notary.