Guardianship Agreements or Guardianship Orders

The Child Protection Worker will assess if a Guardianship Agreement or Guardianship Order is in the best interests of the child and/or youth when there are child protection concerns.

REFERENCE

Department of Health and Social Services Policy

CFSA Section 3.2(1)- Mediation

Family Law Act

Children's Law Act

PURPOSE

- To determine whether a Guardianship Agreement or Guardianship Order under the *NWT Family Law Act and NWT Children's Law Act i*s a viable and appropriate permanency option for a child and/or youth. Protection concerns must be present.
- To recognize and support that guardianship with an alternative caregiver can be a permanency option for a child and/or youth.
- To ensure the continuity of safety for the child and/or youth when an alternate living arrangement is proposed or pursued.
- To ensure that an Extended Family or Provisional Home Study is completed and approved as part of the new placement of the child and/or youth in a guardianship arrangement.

PROCEDURE

<u>Child Protection Worker:</u>

a) Consult with the Supervisor/Manager if a Guardianship Agreement or Guardianship Order is in the best interests of the child and/or youth.

b) Consult with Deputy Director of Practice if a Guardianship Agreement or

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Guardianship Order is in the best interests of the child and/or youth.

c) Consult with Legal Counsel to determine if Guardianship Agreement or Guardianship Order is in the best interests of the child and/or youth.

d) Consult with the child and/or youth ages 12 years or older about their views on the potential guardianship placement and arrangement.

e) Advise the parent(s)/legal guardian(s) and proposed guardian(s) of their right to seek legal counsel regarding the nature and effect of a Guardianship Agreement or Guardianship Order.

f) Consult with the Supervisor to determine whether the child and/ or youth (12 years of age or older) who is subject to the Guardianship Agreement or Guardianship Order, needs legal counsel to represent their best interests. Refer to ***Standard 5.7 – Obtaining Legal Counsel for Children*** for further direction.

g) Explain to the proposed guardian(s) the supports and services that may be available to them such as a Voluntary Services Agreement. Refer to ***Standard 2.1 – Voluntary Services Agreements and Standard 2.2- Parental Contribution.***
   - If the guardian requires financial support, they are only eligible to receive the *basic* foster care rate for the region in which they reside. No special rates will apply.
   - The Guardian may only receive financial assistance while the child and/or youth reside in the home. Should the child and/or youth no longer reside in the home, the guardian must notify the Child and Family Services office. This must be included in the Voluntary Services Agreement.
   - Discuss Parental Contribution and Children's Special Allowance.

h) Explain to the proposed guardian(s) that should the placement begin to breakdown, to notify the Child and Family Services office *prior* to moving the child and/or youth or returning the child and/or youth to their biological parent(s). This must be included in the Voluntary Services Agreement.

i) Notify the Director of Child and Family Services at CFS_Director@gov.nt.ca upon obtaining the signed Consent for Release/Receipt of Information Form, to inform them of the potential guardianship arrangement of the child and/or youth.

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j) Conduct an Extended Family/Provisional Foster Home Study and ensure it is approved by the Supervisor/Manager. Refer to ***Standard 7.2 – Approval of Extended Family and Provisional Foster Homes*** for further direction.

k) Consult with the Supervisor, and Director's legal counsel to decide when to arrange the following to facilitate the Guardianship Agreement or Guardianship Order:
   - Amend, extend or terminate the Child Protection Order, Youth Protection Order or Plan of Care Agreement; and
   - Designate the potential new primary household as an extended family or provisional foster home until the legal Guardianship Agreement and/or Guardianship Order has been finalized.
   - Consult with the Manager and Assistant Director as appropriate.

l) Provide a copy of the Guardianship Agreement or Guardianship Order to the Director of Child and Family Services.

m) Document all related actions and decisions in a case note in MatrixNT and place a hard copy on the child and/or youth's file.

n) Complete the Guardianship Checklist to indicate all required actions have been completed. Provide the completed Checklist to Supervisor and/or Manager to review.

Supervisor/Manager:

a) Meet with the Child Protection Worker to discuss the plan for guardianship.

b) Meet with the Child Protection Worker to determine whether the young person (12 years of age or older) who is subject to the Guardianship Agreement and/or Guardianship Order, needs legal counsel to represent their best interests.

c) Review and approve the Extended Family/ Provisional Foster Home Study once completed correctly.

d) Meet with the Assistant Director and Deputy Director of Practice to discuss if the proposed guardian(s) is suitable and appropriate based on the result of the Extended Family/ Provisional Foster Home Study.

e) Consult with the Director's legal counsel to determine if the child and/or youth's child protection status (investigation, apprehension, plan of care agreement or

court order) should be amended, extended or terminated in order to facilitate the Guardianship Agreement or Guardianship Order.

f) Review the Guardianship Checklist to ensure the Child Protection Worker followed all required steps. Once satisfied that the Checklist is accurate and completed correctly, all case notes are up to date in MatrixNT, sign off on the Checklist and then provide the Checklist to the Assistant Director for review.

g) Notify and consult the Assistant Director of the matter going forward and document the meeting as a ***Case Note*** in MatrixNT and place a hard copy on the child and/or youth's file**.**

Assistant Director:

a) Meet with the Supervisor/ Manager and Deputy Director of Practice to discuss if the proposed guardian(s) is suitable and appropriate based on the result of the Extended Family/ Provisional Foster Home Study.

b) Review the Guardianship Checklist to make sure all required steps have been completed, and all required persons have signed off. Once satisfied that the Checklist is accurate and complete, sign off and provide the Checklist to the Deputy Director of Practice for final approval.

c) Ensure the Supervisor /Manager has documented the consultation as a ***Case Note*** MatrixNT and placed a hardcopy on the child and/or youth's file.

Deputy Director of Practice

a) Consult with the Child Protection Worker if a Guardianship Agreement or Order is in the best interest of the child and/or youth.

b) Discuss the suitability of the potential Guardianship Agreement or Guardianship Order with the Supervisor /Manager and the Assistant Director based on the result of the Extended Family/ Provisional Foster Home Study.

c) Review the Guardianship Checklist to ensure all steps have been completed and then sign off on the Checklist for final approval.

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Director of Child and Family Services:

a) Will be contacted through the CFS_Director@gov.nt.ca when a proposed guardianship arrangement has been identified for a child and/or youth who has a protection concern with Child and Family Services.

b) Will conduct a Departmental Child Protection Record Check upon receipt of the signed ***Child Protection Record Check Form***.

c) Will be provided with a copy of the Guardianship Agreement or Guardianship Order.

Note:
The Child Protection Worker should only present Guardianship as a potential permanency option. They should not make any formal recommendations to the family; any formal recommendations should only be made by legal counsel.

Guardianship Agreement – if both legal guardians/parents agree to the choice of guardian, they can sign a Guardianship Agreement.

Guardianship Order – if one parent/legal guardian does not agree with the choice of guardian, the other parent must make an application to a Supreme Court Judge for a Guardianship Order

FORMS

- Extended Family and Provisional Foster Home Study
- Child Protection Record Check
- Consent for Disclosure of Criminal Record Information
- Consent for Release and/or Receipt of Information
- Guardianship Checklist
- Case Note – MatrixNT

TOOLS

- Guardianship as a Permanency Option for Children or Youth

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