

Your “Vormund” represents you



Why this leaflet?

When parents cannot assume responsibility for their child, a guardianship or supplementary curatorship will be ordered for the child. The guardian will have parental rights and become an important person in the lives of all persons involved. However, many young people and adults do not really know what the guardian does, what his function and his role is. Therefore, we have made this flyer to answer some questions which are frequently asked by young people, parents or other caregivers of children and adolescents, in a brief and understandable style.

Let us mention two things beforehand: First, when we write about guardians or other adults, this of course always means both men and women.

Second, sometimes you will come across a reference to a section of a law (§), i.e. a particular regulation within a law. The wording of those laws can be looked up on the website: www.gesetze-im-internet.de and in the “Bürgerliches Gesetzbuch” (=BGB/German Civil Code) or in Book VIII of the “Sozialgesetzbuch” (Social Code) (SGB VIII). Otherwise, just turn to your guardian or the person in charge at the Youth Welfare Office to ask for the precise wording of the relevant law.

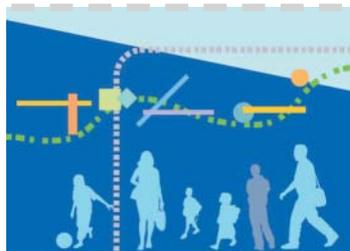
Why is a guardian called a guardian?

As you can imagine, the institution of guardianship has existed for a very long time. In former times - about 1000 years ago - most people in Germany were living on farms. The landlord who owned the farm had the duty to protect and provide for the persons belonging to his family or working on his farm, and even to arbitrate their disputes and to represent them in legal matters. This duty of the landlord was called the “Munt” or “mundium”. The people who were entrusted to the landlord were called the “Muntlings” because they were subject to his “mundium”. Therefore, until today, a “Vormund” (guardian) means someone who, instead of the parents, assumes these functions for a child - the so-called “Mündel” (ward). However, nowadays not only men, but also women can be appointed as guardian.

WHAT BOYS AND GIRLS SHOULD KNOW:

What is a “Vormund” (guardian) and what is an “Ergänzungspfleger” (supplementary curator)?

As long as you are not yet 18 years old, there must be someone to assume responsibility for you and to make sure you are doing well. Normally, this would be the parents’ duty but sometimes parents are not able or willing to accomplish this task. In such case, another adult person is appointed by the court to assume responsibility for you instead of the parents. That person is called a guardian. The guardian is your legal representative instead of the parents and has to ensure your welfare. For example, he administers your money until you



Your “Vormund” represents you



will be 18 years old or makes sure that you can live in a suitable child care facility or foster family, or in sheltered housing.

If only parts of their parental rights were withdrawn from the parents - for example, the right to apply for socio-educational provisions (“Hilfe zur Erziehung”), or to decide where you have to reside – this is called an “Ergänzungspfleger” (supplementary curator) or simply the “Pfleger”. He is your legal representative only for specific matters; he stands beside the parents and supplements them; that is where the strange name comes from.

Who gets a guardian?

From earlier times we know that for children whose parents had died (i.e. orphans), a guardian was assigned. Today it's still the same. But nowadays, there are many other reasons why someone may get a guardian: Sometimes parents are very ill and have to pass on responsibility for their child to someone else. There are parents who do not care for their child or who physically abuse or mistreat their child. Then it is possible that the Family Court fully or partly deprives them of their responsibility for the child. Those parents are no longer allowed to care for their child. But as there must be someone to take care of the minor's welfare until his or her 18th birthday, the court appoints another adult person – the guardian – to take on that task.

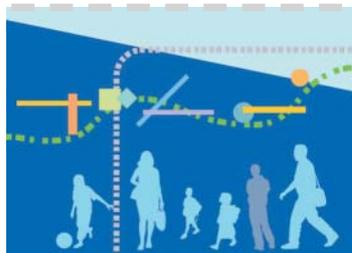
There is yet another case: If a girl below the age of 18 gives birth to a baby, a guardian will be appointed to stand by her side and to ensure the legal representation of her child.

Who can become a guardian?

In principle, every adult person can be appointed by the Family Court as guardian.

Sometimes the court entrusts guardianship to the grandparents or another person. However, not always are there suitable adults available who are willing to take on such responsible task for a girl or a boy. Therefore, in many cases an adult person working at the Youth Welfare Office is appointed as guardian. That person is called “Amtsvormund” (official guardian/local authority guardian) because he is working at the local authority or office. Often such person is in charge of several children at the same time. Sometimes the guardian comes from a Guardianship Association. In any case, the guardian is a specific person, whom you can talk to, and not the Youth Welfare Office or association as a whole. That adult person assumes personal responsibility for you and has to represent your interests.

Therefore it is important that the guardian is really independent. For that reason, the director of the Youth Welfare Office is not allowed to dictate to the guardian what to do. For example, the law rules out the possibility that the care persons in the home where you live can become your guardian (§ 1791a of the German Civil Code). It is true that this would sometimes be practical for you, but it's their profession to work with children and the home has employed them for this job. Therefore, they are not really independent.



Your “Vormund” represents you



Can I choose my own guardian?

Some guardianship courts or youth welfare offices like to include the children or adolescents in the process of selecting their guardian. Actually it is a matter of course, but it depends on your age. Besides, you can make your own suggestions which adult person of confidence you want to have as guardian. In case it happens at a later date that you do not get along with your guardian at all, you can ask the Youth Welfare Office or the Guardianship Court to appoint a different guardian. Then they will have to have a closer look at it.

What does the guardian decide?

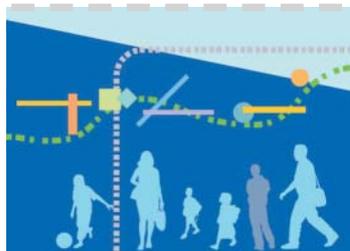
When you go to school, it's the teacher who can tell you what to do - for example, that you should read something or solve arithmetical problems – although it is usually the parents who are in charge of a child's education. It's much the same with the guardian. The law says that the care persons in the home, or the foster parents, are allowed to decide in matters of everyday life (§ 1688 German Civil Code): When you have to do your homework, when you have to be home, or if someone should be allowed to stay out longer or to go to the disco. Regardless of all this, your guardian is always responsible for you and makes decisions on all vital matters concerning your life. For example, he makes sure that you find a suitable home which meets your needs, in a youth care facility, a foster family or sheltered housing, or he decides which school you should attend. He will sign the contract of apprenticeship, or a consent to a surgery. Also if for example you are pregnant but don't want the child, you will need the consent of your guardian. Moreover, he has a say about issues of contact with your parents. However, your guardian should always let you know about the decisions he made.

Do I also have a say?

Your guardian should discuss it with you whenever he makes an important decision on your behalf (§ 1626 [2] German Civil Code). After all, the decisions he makes should be for your good and to be able to do so, he must get to know you a little and vice versa. Agreements concerning your future are usually made in the course of personal interviews between the guardian and you. But you can also agree on writing to each other on a regular basis, or telephoning. If you feel that your guardian fails to involve you in the decision-making processes, you can claim that your guardian gives you the possibility to take part in it. He must take into account your growing sense of responsibility as well as your need for independence. This means, the older you are, the more weight your views must be given. In case you disagree, the guardian will try to come to an agreement with you.

What if I cannot reach an agreement with my guardian?

It does not always happen, when parents act in the best interest of their child, that the child agrees. As to the guardian, it's much the same as when you disagree with your parents. First of all, you can try to convince



Your “Vormund” represents you

him of your point of view and your needs. If you have the impression that your guardian does not sufficiently think about it, you can try to find someone to help you clarify the matter. This can be someone from the Youth Welfare Office, the youth care facility or the foster family, or someone from the Guardianship Court. If you do not get along with your guardian at all, you can complain to the Guardianship Court – provided that you are at least 14 years old – and apply for another person of confidence to be appointed as guardian for you. You can make suggestions as to who it should be.

Why is my social worker at the Youth Welfare Office not my guardian?

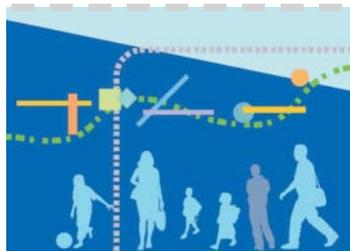
If you live in a youth care facility or with a foster family, you will know that there is a social worker at the Youth Welfare Office who is in charge of you. That person will have Case Plan Discussions with you or Educational Guidance Interviews and will decide what kind of assistance or counselling you should receive from the Youth Welfare Office. Maybe you think that it would be easier if that person could be your guardian. But that's not possible. Because your social worker is responsible not only for you, but must equally try to cooperate well with your parents and the staff of your residential home or your foster family. And besides: When the director of the Youth Welfare Office gives directions to the social worker, the latter has to comply with them. The guardian, however, must be someone who always stands by your side and who can enforce your rights and claims. Your guardian also helps you when you are in trouble at the residential home or with your foster family. The guardian is independent and will always stand by your side.

How can I get to know my guardian?

As soon as the court has appointed a guardian for you, the latter will usually contact you very soon to meet each other personally. He will tell you how to reach him if you need him. And if he does not contact you: Just ask your social worker at the Youth Welfare Office, your key worker in the home or your foster parents and then give him a call and tell him that you want to meet him and get to know him. It's your right!

Will the guardian sometimes spend time with me?

Many guardians like to spend time with the children or youngsters who are entrusted to them. Perhaps once your guardian will take you to an ice-cream parlour, meet with you in a café or for a barbecue party and you can just have a chat. Otherwise, just ask if and when it's possible to meet your guardian outside his office!



Your “Vormund” represents you



WHAT PARENTS SHOULD KNOW:

Does the guardian help me with conflicts with the child care facility or foster family?

If you don't agree to the way your child is brought up or treated in the child care facility or foster family, you should contact the guardian and tell him about it. He will take up contact with your child and enquire how he is doing in the facility or with the foster family. If the guardian shares your concerns, he will make efforts to improve the situation. If your child is very unhappy in the facility or foster family, the guardian will check if it may be better for your child to be placed somewhere else. Please keep in mind: The appointed guardian has the duty to ensure your child's adequate development and safe and secure upbringing. Moreover, he has to represent your child's needs and rights in dealing with public authorities.

Does the guardian have a say in matters concerning visiting arrangements?

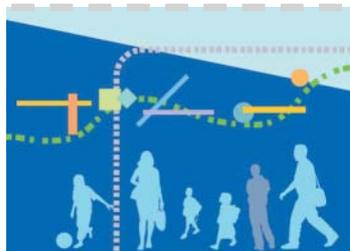
If you want to make arrangements about contact with your child, the guardian often has a say in it. He decides about where your child should stay, and that includes whether, where and when you can meet your child. Usually he will discuss this matter with you as well as with the child care staff or foster family, and with your social worker at the Youth Welfare Office. To what extent your child will be included in the process depends on your child's age and maturity.

What rights do I have to demand information from the guardian?

Usually the child care staff in the child care facility or the foster parents will inform you how your child is doing. If you want to know more, you can turn to the guardian. He will contact the facility or foster family to enquire what your child is doing and how he is doing. You normally have a right to this information (§ 1686 German Civil Code).

Where can I complain about the guardian?

If cooperation with the guardian to solve conflicts no longer works, you may turn to the Guardianship Court or – in case of an official guardian (“Amtsvormund”) – to his superiors at the Youth Welfare Office. They will have to deal with your complaints.



Your “Vormund” represents you



WHAT CHILD CARE STAFF IN CHILD AND YOUTH CARE FACILITIES AS WELL AS FOSTER CARERS SHOULD KNOW:

What is the guardian’s role in developing the Case Plan?

The guardian represents the interests of the child or youth, even against the Youth Welfare Office. Having care and custody of the child, he takes part in the Case Plan Discussions and files the applications for provisions or benefits he deems necessary for the child or youth. This includes any recurring and non-recurring payments for the child’s maintenance (§ 39 of SGB VIII) [Social Code, Book VIII].

Moreover, he exercises the right of the child to choose the social service or service provider (“Wunsch- und Wahlrecht”), i.e. he chooses the child or youth care facility or the foster family together with the child or youngster.

What if the guardian is not in agreement with the Youth Welfare Office?

The guardian, having care and custody of the child, has a right to request child and youth care services (“Hifen zur Erziehung”) for the child or youngster. If the Youth Welfare Office, as public welfare agency, rejects his applications, and if he finds their arguments unconvincing, he may file an objection or lodge a complaint with the Administrative Court if he deems the service or benefit necessary for the child or youth.

What are the functions performed by the Social Services (“Soziale Dienste”) at the Youth Welfare Office?

The social workers of the Social Services which belong to the Youth Welfare Office decide whether benefits or services, such as e.g. child and youth care services in the form of residential care or foster families, should be granted or not. They offer counselling and assistance to the foster family with regard to any questions relating to the child’s upbringing and care. One of their tasks is to facilitate effective cooperation between the caregiver or persons who are responsible for the child’s upbringing in the child care facility, and the parents, in order to serve the best interest of the child or youngster. Besides, they assess whether the home circumstances of the child’s family of origin can be improved so that their child can be returned to their care. If so, they will support the parents in their efforts (§ 37 of SGB VIII).

