

The Role of a Property Manager appointed under the Protection of Personal and Property Rights Act 1988

It is important that a person understands, before accepting an appointment as a Property Manager under the Protection of Personal and Property Rights Act 1988 ("Act"), what will be required of them in carrying out the role.

The Act sets out the legal framework for the Property Manager's role, when managing the property affairs of a person ("the subject person") who is unable to manage or make decisions in respect of their own property affairs. The Family Court, when appointing a Property Manager, will specify in the Property Order they make, the powers that the Property Manager holds under their appointment as well as any conditions attaching to the appointment and management of the subject person's property.

A Property Manager must, in exercising their powers under the Property Order and when carrying out their duties, always act in the best interest of the subject person. At the same time the Property Manager should consult with and encourage the subject person to develop and, as far as is possible, take part in, the decision-making process in respect of their own property and financial affairs.

Duties of a Property Manager:

Some of the key duties of a Property Manager include:

- Developing a financial plan and budget to ensure that the subject person's financial affairs are administered in the best way possible.
- Collecting income and paying expenses, which includes ensuring that the subject person is receiving any benefits or income they may be entitled to receive, such as the New Zealand Superannuation.
- Overseeing the management of the subject person's property and any debts. The meaning of property itself is wide and includes personal property, such as motor vehicles, bank accounts and business interests as well as the family home and an investment property. Property also includes any interest, right and exercisable power in respect of any property owned by the subject person.
- Keeping accurate financial records of all financial transactions taken on behalf of the subject person.
- Filing statements of management with the Family Court, during the course of their appointment.

A Property Manager's role requires accountability in respect of the actions taken on behalf of the subject person. The management statements filed by the Property Manager provide the Family Court with oversight of the subject persons financial and property position and how the Property Manager has managed the subject person's property affairs.

Management Statements

The Act and its Regulations set out what statements of management a Property Manager must file with the Family Court and when, as well as the information that must be provided and the form the statements must take.

1. *The First Statement of Managership*

The first statement of management must be filed within 3 months of the date of the start of the managership. The first statement reflects a summary of the property owned by the subject person, its value (with valuation method) and condition, any income received or entitled to be received by the subject person as well as their liabilities, as at that date of the statement.

2. *Annual Statement of Management*

An annual statement of management must be filed each year within 30 days of the date on which the Property Manager was appointed under the Property Order.

The annual statement sets out the information required in the first statement but updated for the year under consideration. In addition, full and detailed financial accounts for the year must be provided, showing the income received and payments made for the year, with supporting documentation included.

3. *Final Statement of Management*

A final statement of management must be filed within 30 days of the end of the Property Manager's appointment. A Property Manager's appointment will end when the subject person dies, or if the appointment under the Property Order expires and is not reviewed, or the Family Court discharges the Property Order, or a new Property Manager is appointed. The final statement relates to the property position at end of the appointment.

The final statement sets out the information required in the first statement but updated to the date on which the Property Manager's appointment ends. In addition, full and detailed accounts must be provided, showing the income received and payments from the last annual statement to the end of the appointment, with supporting documentation included.

What happens if you don't file statements?

It is important for a Property Manager to be aware that it is an offence not to file statements with the Family Court. If a Property Manager fails to file the required statements, they are liable on conviction, to a fine not exceeding \$1,000.

If you are considering accepting an appointment as a Property Manager or have been appointed as a Property Manager by the Family Court, you may wish to get good legal advice from the outset to ensure you understand your role, obligations and duties moving forward. If you require more information the team at Brookfields can guide you through the process and ensure all the requirements under the Act are met.