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## Adult Guardianship & Trusteeship Fundamentals

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# The Initial Interview for Clients Seeking Guardianship & Trusteeship

*Adult Guardianship & Trusteeship Fundamentals*

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## **1.0 INTRODUCTION**

The initial interview for clients that are seeking to be appointed as someone's guardian and trustee are generally speaking surrounded by circumstances of stress and uncertainty. A first interview for an application for guardianship and/or trusteeship could involve a family that is transitioning a child with special needs to adulthood, a spouse or an adult children responding to the failure of that person to have executed an enduring power of attorney or personal directive, questions regarding the validity of existing documents, or a long-term disability sustained due to a motor vehicle accident or serious medical issue such as a stroke, just to name a few examples. Of course, the role of the lawyer in a first meeting is to impart information and provide initial recommendations. It is also to provide reassurance to the client that there is a process to solve their issue of their inability to help the family member who is experiencing the lack of capacity to make their own decisions.

I start with an assumption of high anxiety on the part of the family. Often there are other members of the family in attendance, particularly if the decision has not been made as to who will be applying to be appointed guardian and/or trustee. Empathy with their situation is imperative.

I hope in this paper to provide some insights and ideas to help you establish that empathy with your clients. It starts with a positive experience for the client in the first meeting; this sets the tone for the relationship going forward.

## **2.0 COMPONENTS OF THE INITIAL INTERVIEW**

### **2.1 Fact Gathering**

Lawyers are trained to work with checklists. Our analytical minds immediately break down the legal problem into its component parts. We know the information we want, and the tendency is to jump right into gathering that information. My first recommendation is to acknowledge this tendency and subdue it.

Your first order of business in establishing empathy is to get to know your client. That starts with listening, not giving an analysis. Ask open-ended questions to let them tell the story and explain why they are in your office. Assume that this is all they have been thinking about prior to the scheduled meeting. If they are not accustomed to interacting with lawyers, you can expect them to be nervous. In my experience, most clients have had little or no experience in dealing with lawyers (if their family member had gone to a lawyer, they likely would not be in your office!) or it may be been for matters that they have felt more in control, such as making a Will or closing a real estate transaction. They are in your office because they have no control over the situation.