

Guardianship and the administration of other people's property

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The management of other people's property was a regular task of the Basel elite long before it became the business of banks. When a citizen died leaving minor children, or when a person became unable to manage his affairs, the city appointed a guardian, the *Vogt*, usually a relative or a respected citizen, who administered the property of the ward under the supervision of the authorities. The guardian had to draw up an inventory, invest the property safely, render accounts at regular intervals and hand over the property to the ward on reaching majority. The city maintained an orphans' office, the *Waisenamt*, which supervised the guardians and approved their accounts.¹

Guardianship was a burden that citizens could not easily refuse. It required time, competence and responsibility, and a guardian who mismanaged the ward's property could be held personally liable. It was also a school of wealth management. The guardians of the Basel elite learned to invest conservatively, to keep accurate accounts, to render them to an authority and to act in the interest of another person. These are precisely the skills and duties of the modern asset manager and trustee, and the fiduciary principles that govern their conduct have one of their roots in the law of guardianship.

The rules on the investment of wards' property were strict. Guardians were required to invest in safe assets, typically rents secured on real estate in the city or its territory, with speculative investments prohibited. The city's orphans' office sometimes held the funds of wards itself and invested them on their behalf. In the nineteenth century, the savings banks and the cantonal bank offered guardians a safe place for the funds of wards, whose investment became one of their regular businesses.

The modern Swiss law of adult and child protection, in force since 2013, entrusts the protection of persons who cannot manage their affairs to

professional authorities, the child and adult protection authorities, and regulates the investment of wards' assets in an ordinance that distinguishes between assets for daily needs, which must be held in safe forms, and other assets, which may be invested more broadly under conditions.² The prudence that the guardians of the eighteenth century practised remains the guiding principle.

1 Notes

1. On guardianship (Vormundschaft) in early modern Basel, the role of the Waisenamt and the supervision of guardians' accounts, see the literature on the legal history of Basel; HLS, article "Vormundschaft". To be verified. ↩
2. Art. 360 ff. Swiss Civil Code (SR 210) on adult protection, in force since 1 January 2013; Ordinance of 4 July 2012 on the Investment of Assets in the Context of Guardianship (VBVV, SR 211.223.11). To be verified. ↩

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