

# Information about Guardianship for Family, Friends and Service Providers

*Office of the Public Guardian*



Family and friends of a person under guardianship and service providers often have questions about the appointment of the Tasmanian Public Guardian.

We hope the information in this booklet will help to develop relationships that will help us to make the best decisions possible for the person under guardianship.



## Who is The Public Guardian?

The Public Guardian is a public officer appointed by the Guardianship and Administration Board and is given authority by that Board to make certain personal or health decisions on behalf of another person.

The Public Guardian is different from the Public Trustee, who makes financial decisions for people.

The Guardianship and Administration Board is a separate organisation. After the Public Guardian is appointed, the Board has no further involvement in making guardianship decisions. This is the role of the Public Guardian.



## Why is The Public Guardian appointed?

Guardianship is an important safeguard for people with decision-making disabilities in our community.

The Public Guardian is appointed as guardian for people with such disabilities as dementia, intellectual disability, brain injury, or mental illness.

Sometimes the person may have lost the ability to clearly say what they want and to have their views respected. The Public Guardian is appointed for a limited period of time to make decisions in one or more areas of the person's life.

The Public Guardian's responsibility is to make a decision that is in the best interests of the represented person, according to their wishes where possible.

To do this we need to talk to the person for whom we are guardian, service professionals, family members and friends.

## What are the values of the Office of the Public Guardian?

We undertake to make decisions in our clients' best interests, acting at all times with respect, integrity, accountability, open-mindedness, and understanding of individual needs.

In carrying out our role we will abide by the Guardianship and Administration Act 1995 and the Public Sector Code of Conduct.

When making decisions we will consider our clients' wishes, needs and aspirations. We will also consider the opinions of their families, friends, those supporting them, and the community at large. Communicating with our clients and key people in their lives enables us to gather sufficient information so that we can make fair, ethical and informed decisions that are in the best interests of our clients.

## How does the Public Guardian make decisions?

The Public Guardian needs to know what decisions are necessary, what choices are available and the effect the proposed decision will have on the person's life.

We will talk to the person under guardianship and try to understand their views past and present, lifestyle choices, and beliefs and values. These will help direct our decision-making on the person's behalf.

We will also talk to those who know the person under guardianship well and who may also be affected by the decision. We are interested in their thoughts and opinions about what the person would have wanted or what is considered best for them for any significant decisions we may need to make.

We will also ask service providers to give us information about the support and services available and to give an opinion on the outcome of potential decisions. When we have this information and have considered all the options available, we will make a decision.

## What guides the Public Guardian when making decisions?

The Public Guardian can only make decisions in the areas set out in the guardianship order. If you have not received a copy of the guardianship order from the Board, you can ask the Public Guardian to explain what the powers and duties the Public Guardian has been given, or ask to be given a copy of the order.

The Public Guardian must make decisions that reflect the principles of the Guardianship and Administration Act 1995:

- The best interests of the person with a disability are promoted
- The wishes of the person under guardianship are, if possible, carried into effect
- Any power or duty imposed by the Act must be performed so that the means which is the least restrictive of the person's freedom of decision and action as is possible in the circumstances is adopted.

Additionally, the Act states that we must act as far as possible:

- in consultation with the person under guardianship, taking into account their wishes
- as an advocate for them,
- in such a way as to encourage them to participate as much as possible in the life of the community,
- in such a way as to encourage and assist them to become self-reliant and to make reasonable decisions for themselves, and
- in a way that protects them from neglect, abuse or exploitation.

### How long does it take to make a decision?

It can take time to collect all the information that is needed and to talk to the person under guardianship and other people who will be affected by the decision. At times a decision may not be possible until services or support provided by government departments and other agencies become available.

### Who can you call or email if you need to talk to someone?

The name, email address and telephone number of the guardian will be given to you. If this person is away or not available they will leave an alternate number on their telephone of someone you can speak to. You can always call the Office of the Public Guardian on (03) 6165 3444 if any urgent decisions need to be made and the guardian is unavailable.

## Can you meet with the Guardian?

If you believe it is important to have a face to face meeting at any time, you should talk to your guardian about this. The guardian can organise to meet with you at a convenient location.

## Is there someone available after hours?

For urgent decisions, the guardian can be contacted after hours. This service is available only when decisions need to be made immediately. Because of the process of decision-making, there will be many decisions that cannot be made after hours.

If a medical emergency arises and treatment is necessary to save the person's life or prevent serious damage to the person's health or prevent them from suffering significant pain or distress, then even if a guardian is appointed with the power to make health care decisions, the medical treatment can still be carried out without consent of the guardian.

## Will the Public Guardian keep you informed?

Family members, friends and service providers who are closely involved with the person, or who will be affected by the decision will be informed as decision making progresses wherever possible. There may be some information that we might not provide if the person under guardianship does not want that information given out, or if it is personal information that other people do not need to know.

## Can you ask for the reasons for a decision?

If you are unhappy with a decision a guardian has made, first speak to them about why they made the decision. If you are still unhappy, you may speak to the Public Guardian on 6165 3444. We will provide written reasons for a decision on request of the person under guardianship or a key party.

## What happens if the decision has financial implications?

We will always work closely with either the person who informally provides financial support, or the person appointed under an enduring power of attorney or administration order when making a guardianship decision that could have financial implications.

## What if you think the decision is not in the interest of the person under guardianship?

If you are unhappy with a decision that has been made, you can speak to the guardian about your concerns. If you are still unhappy after speaking with the guardian you can ask for the decision to be reviewed by the Public Guardian.

## Do you want to make a complaint?

If you want to make a complaint you can discuss this with the guardian. Talking about the problem, getting more information or clearing up any misunderstandings can help sort things out quickly. If you do not want to speak to the guardian, you can speak to the Public Guardian. You will need to put your complaint in writing to the Public Guardian. A complaint will be investigated and we will respond to you within 21 days.

## What if you are unhappy with the order the Guardianship and Administration Board has made?

If you or the person who has been made the subject of a guardianship order is unhappy with the decision of the Board, you may write to the Board at 54 Victoria Street, Hobart, within 21 days, and ask them to give you a statement of reasons for making the decision.

If you want to appeal the decision, you should seek independent legal advice. Generally, decisions must be appealed within 28 days after the day on which the determination was made, or if you have requested reasons for the Board's decision, within 28 days after the day on which you received those reasons.

## How can you apply for a review of the order?

You can ask the Guardianship and Administration Board to review a guardianship order at any time during the course of the order, especially if the circumstances of the person under guardianship have changed, if they have regained the ability to make their own decisions, or if they are no longer in need of a guardian.

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