

What is a Guardian?

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A guardian is somebody who can legally make important personal decisions on behalf of another person. That other person must be over the age of 16 and have a disability that affects their capacity to make their own important life decisions.

Who can be a guardian?

A guardian can be a spouse, parent, relative or friend of a person with a disability. A guardian can also be the Public Guardian of NSW. A person who is paid to provide service to the person with the disability cannot be the guardian (this does not include the carer's allowance).

How does someone become a guardian?

A guardian must be legally appointed. In NSW the Guardianship Tribunal or the Supreme Court can appoint a guardian following an application. The Guardianship Tribunal has been established specifically to appoint guardians and is a free service.

What does a guardian do?

A guardian makes decisions.

When the Guardianship Tribunal appoints a guardian they make an **order** that tells the guardian what types of decisions can be made for the person. A guardian may be appointed to make a decision about where a person will live or what services the person receives to help him or her at home.

A guardian can also be appointed to give a doctor or dentist legal consent to treatment.

What responsibilities does a guardian have?

A guardian is responsible for **making decisions** on behalf of another person in the areas where appointed to do so. A guardian is responsible for ensuring that those decisions are in line with the principles of the Guardianship Act. The principles promote independence and choice as well as care and protection. (See the back of this factsheet for principles.)

Is the guardian responsible for providing care for the person?

A guardian is not responsible for providing care, accommodation, transport or day to day contact with the person with the disability, unless the person appointed as guardian has a close relationship to the person and chooses to care for him or her.

Is the guardian the guardian forever?

The guardian is only the guardian for the length of time authorised in the order. This may be for a maximum of 3 years or less for a first order or a maximum of 5 years or less for a renewed order. An order may be renewed or discharged after the Guardianship Tribunal has reviewed the situation.

Does a guardian make decisions about a person's money?

A guardian does not make decisions about a person's money. However some guardians may also be the person's **financial manager**. Financial managers are appointed by the Guardianship Tribunal, Supreme Court or other tribunals. The powers of a financial manager and the powers of a guardian are very different.

What if the guardian is acting wrongly?

If you think a guardian is not making decisions in the best interests of the person contact the Guardianship Tribunal inquiry staff and ask them for advice on what to do on 02 9556 7600 or Toll Free for country areas on 1800 463 928. Your options may include presenting your concerns at a review of the order by the Tribunal.

If you are concerned about the actions of a staff member of the Office of the Public Guardian or a decision made by the Public Guardian contact the Regional Manager of the area in which the person resides. If you are not satisfied with a response from the Regional Manager, write to the Complaints Support Officer at the address listed below. The Complaints Support Officer is there to help you lodge a complaint. A complaint will be investigated and an outcome will be provided to you in writing within 10 working days.

If you are unhappy with the actions of the Public Guardian or disagree with a decision made by the Public Guardian you can call or write to this Office to make a complaint or seek a review of a decision. For more information contact the Complaint Support Officer at the Office of the Public Guardian on the number below.

The principles of the Guardianship Act

- The welfare and interests of the person should be given paramount consideration.
- The freedom of decision and the freedom of action of the person should be restricted as little as possible.
- The person should be encouraged as far as possible to live a normal life in the community.
- The view of the person should be taken into consideration.
- It is important to preserve family relationships and the cultural and linguistic environment of the person should be recognised.
- The person should be encouraged as far as possible to be self reliant in matters relating to personal, domestic and financial affairs.
- The person should be protected from abuse, neglect and exploitation.
- The community should be encouraged to apply and promote these principles.

For further information contact:

The Information & Support Branch of the Office of the Public Guardian

Phone: 02 8688 2650 Freecall: 1800 451 510 Fax: 02 8688 9797
Level 7, Parramatta Justice Precinct, 160 Marsden St, Parramatta NSW 2150
www.lawlink.nsw.gov.au/opg

The Guardianship Tribunal

Phone: 02 9556 7600 Freecall: 1800 463 928 Fax: 02 9555 9049
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