

Understanding the NT Guardianship of Adults Act

In this fact sheet

The NT *Guardianship of Adults Act 2016* came into effect on 28 July 2016. This fact sheet explains:

How the Act works	An overview and the roles of the Public Guardian and the NTCAT
What it covers	Decision-making in line with the guardianship principles
What types of orders there are	Interim and interstate orders, and those for young people

How does the Act work?

An overview of the Guardianship Act

The Guardianship Act supports people with impaired decision-making capacity who need help to make decisions about their personal or financial matters.

It covers people with cognitive impairment from any cause, including mental illness, dementia, intellectual disability or acquired brain injury.

The Guardianship Act recognises an adult's overall wellbeing, human rights and basic freedoms, and aligns the Northern Territory with the United Nations Convention on the Rights of Persons with Disabilities.

The Guardianship Act:

- established an independent Office of the Public Guardian and an independent statutory officer as the Public Guardian
- introduced comprehensive guardianship principles
- transferred jurisdiction from the Local Court to the Northern Territory Civil and Administrative Tribunal (NTCAT).

The Public Guardian's role

An independent statutory officer known as the 'Public Guardian' oversees guardianship in the Northern Territory.

The Public Guardian:

- gives information to guardians and people thinking about guardianship
- promotes access to services for represented adults, guardians and families
- acts as a guardian for an adult when appointed by the NTCAT
- does research and helps educate people about guardianship
- investigates guardianship matters.

i The Guardianship Act sets out the Public Guardian's powers and responsibilities.

The NTCAT's role

Authority for guardianship has moved from the Local Court to the NTCAT. This means applications for guardianship (a 'guardianship order') now go to the NTCAT to decide.

The NTCAT will make a guardianship order that best suits the adult's situation. The order will state the personal or financial matters a guardian has authority for, and any limitations.

i Please visit www.ntcat.nt.gov.au for more on applying for, removing or reassessing a guardianship order.

The NTCAT can appoint one or more guardians to an adult. A guardian might be:

- the Public Guardian
- the Public Trustee (for financial matters)
- an eligible adult aged 18 or over
- a combination of the above.

What does the Act cover?

Guardianship principles

The guardianship principles provide a framework for decision-making that all guardians must follow. They state that a guardian must always:

- act in the 'best interests' of the adult
- exercise their authority in a way that least restricts the adult's freedom of decision and action
- consider the adult's current and previously stated views and wishes
- support the adult to make their own decisions where feasible.

A guardian must act in line with the guardianship order, the Guardianship Act and any other NTCAT order.

 Please see section 4 of the Act for a detailed list of the guardianship principles.

Authority for health care decisions

A guardian may be given authority for a range of decisions, including health care decisions, for the adult they represent.

The Act defines health care very broadly. Guardians with authority for health care can generally agree to treatments that:

- involve general anaesthetic, similar sedation or giving a drug that affects the central nervous system
- require a doctor or dentist to do or supervise
- require prescriptions for medicine
- are ongoing, regular or part of a treatment plan.

Restricted health care decisions

Some health care decisions can only be made by the NTCAT. We call these 'restricted' health care decisions. They include:

- actions that result in sterilisation
- terminating a pregnancy
- removing tissue that won't grow back for transplanting to another person
- health care for medical research
- any other health care that regulation states is restricted.

 See section 8 of the Guardianship Act (restricted health care decisions).

 See section 4 of the *Transplantation and Anatomy Act 2011* (non-regenerative tissue).

Advance personal planning

Advance personal planning allows a person to plan for a future where their health, financial and lifestyle wishes are heard and respected if they lose decision-making capacity.

The *Advance Personal Planning Act 2013* has been updated to align it with the Guardianship Act.

 Please see our 'Advance personal plans and adult guardianship' fact sheet or visit www.advancepersonalplanning.nt.gov.au.

What types of orders are there?

Interim (urgent) guardianship orders

The NTCAT can make an interim order while it decides an application if it reasonably believes that the adult has impaired decision-making capacity and urgently needs a guardian.

Interstate guardianship orders

The Act allows the NTCAT to register interstate guardianship orders. This removes the need to apply for guardianship in the Northern Territory when an order is in place in another Australian jurisdiction.

Guardianship orders for young people

The NTCAT can make a guardianship order for a 17-year-old for when they turn 18. The aim is to smooth the transfer of decision-making authority from childhood to adulthood.

Important documents

- *Guardianship of Adults Act 2016*
- *Advance Personal Planning Act 2013*
- *Transplantation and Anatomy Act 2011*
- our *Understanding guardianship* guide

If you have questions any, please contact us:

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