

FAQs – Adult guardianship in the NT

In this fact sheet

This fact sheet answers some common questions we hear about adult guardianship.

They relate to:

- adults who need a guardian
- the guardianship process
- problems and changes

Adults who need a guardian

What is guardianship?

Guardianship is a legal way to appoint a person (a ‘guardian’) to act in certain personal or financial matters for an adult who has ‘impaired decision-making capacity’ and needs someone to help them with decisions.

What is ‘impaired decision-making capacity’?

‘Impaired decision-making capacity’ is where someone has difficulty:

- understanding and remembering information about their personal or financial matters
- weighing up this information to make reasoned and informed decisions
- communicating their decisions.

An adult’s decision-making capacity may be considered to be impaired even if:

- the impairment only happens sometimes or varies depending on the situation
- the adult can make decisions about some personal or financial matters.

An adult is presumed to have decision-making capacity until the opposite is shown.

i Section 5 of the *Guardianship of Adults Act 2016* defines decision-making capacity.

Who appoints a guardian?

The Northern Territory Civil and Administrative Tribunal (NTCAT) is the authority that appoints guardians. It will do this only if it is satisfied that an adult:

- has impaired decision-making capacity for some or all of their personal or financial matters
- needs a guardian for these matters.

Who can be a guardian?

A guardian may be:

- an adult who is eligible for appointment
- the Public Guardian
- the Public Trustee (for financial matters)
- one or more of the above.

Can there be more than one guardian?

Yes. The NTCAT can appoint two or more guardians for an adult. It will do this:

- **Jointly:** All guardians must agree and make decisions jointly.
- **Severally:** Guardians have separate decision-making responsibility for different matters.
- **Jointly and severally:** Guardians can use their decision-making authority together or on their own, but should agree.

What if someone needs a guardian urgently?

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

Can I register an interstate order?

Yes. You can apply to the NTCAT to register an interstate order if the adult is now living in the Northern Territory.

The guardianship process

Who can apply for guardianship?

A person with an interest in the adult's wellbeing, or the adult themselves, can apply to have a guardian appointed.

How is a guardian appointed?

An application is made to the NTCAT for a guardianship order by someone concerned for the adult, or by the adult themselves.

What is a guardianship order?

A guardianship order is a legal document which states what decisions a guardian can make for the represented adult and any conditions. The NTCAT will give a copy of the order to each guardian and the adult after it is made.

Do you need a lawyer at NTCAT hearings?

It is your choice. By law, adults can choose to speak for themselves, have a lawyer represent them or, with the NTCAT's approval, ask someone else to speak for them.

 See section 130 of the *Northern Territory Civil and Administrative Tribunal Act 2014*.

Problems and changes

Who do you speak to?

If you need to speak with someone about a guardianship matter you can contact the Office of the Public Guardian or the NTCAT.

The NTCAT has the authority to:

- appoint guardians and hear and decide all guardianship applications
- change or cancel a guardianship order.

The Public Guardian can give you information about these things and investigate any guardianship concerns.

You can download forms from the NTCAT website if you need to apply for guardianship or change an existing guardianship order.

 Visit ntcat.nt.gov.au/publications.shtml.

What if I am worried about a guardian's behaviour?

The Guardianship Act sets out offences and penalties for guardians who are not doing the right thing. Offences include:

- pretending to be a guardian
- using your authority improperly
- inducing a decision-maker to use their authority improperly.

If you are concerned about the welfare of an adult, or think their guardian is not following the guardianship rules, you can ask the NTCAT to reassess the order.

What if my circumstances change?

You can apply to the NTCAT to change a guardianship order at any time. This includes if you:

- are the represented adult
- can no longer be a guardian
- have concerns for the adult's welfare
- have another legitimate reason.

We suggest you speak first with us at the Office of the Public Guardian to discuss the changes you would like.

If you are a guardian and just need a short break from your role, due to ill health or another important reason, the Public Guardian may be able to help.

Important documents

- *Guardianship of Adults Act 2016*
- *Advance Personal Planning Act 2013*
- *Northern Territory Civil and Administrative Tribunal Act 2014*
- our *Understanding guardianship* guide

Office of the Public Guardian

 1800 810 979 (8 am to 4 pm weekdays)

 public.guardian@nt.gov.au

 www.publicguardian.nt.gov.au

Northern Territory Civil and Administrative Tribunal (NTCAT)

 1800 604 622 (8.45 am to 4 pm weekdays)

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