

# Information for guardians

## In this fact sheet

The Northern Territory Civil and Administrative Tribunal (NTCAT) appoints a guardian to make certain decisions for an adult under a guardianship order.

This fact sheet explains:

What your main obligations are	Your general authority, the principles you must follow and the things you can and cannot do
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What some specific obligations are	Property matters, record keeping and access to information
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What to do if your situation changes	Needing time off or changing the guardianship order
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## What are your main obligations?

### Managing personal or financial matters

As a legal guardian, you will make decisions for the adult you represent about the personal or financial matters which you have authority for. It is important that your decisions are timely, and that you act as an advocate for the adult in these matters.

When the NTCAT makes its guardianship order, it will tell you what decisions you can make and give you a copy of the order as proof of your authority. It can be helpful to have the order with you when you go to formal meetings for the adult.

### Exercising your legal authority

To meet your responsibilities as a guardian, you can do anything for the adult that they could do lawfully if they had full legal capacity.

But this only applies for the decisions listed in the order. And your authority is always subject to the rules in the *Guardianship of Adults Act 2016* and the guardianship order.

If the adult won't follow your decisions, you can apply to the NTCAT for help. The NTCAT will consider the adult's best interests and what might help protect them from harm, neglect, abuse or exploitation.

### Acting honestly and fairly

As a guardian, you must always:

- follow the Guardianship Act, especially the guardianship principles
- comply with the guardianship order and any other NTCAT order
- cooperate with other guardians or appointed decision-makers
- take into account the views and wishes of any 'interested person'
- act with honesty, care, skill and diligence.

**i** Please see our 'What is a guardian?' fact sheet, or section 3 of the Guardianship Act, for a definition of an 'interested person'.

### Knowing the limits of your authority

The Guardianship Act lists actions you can't take as a guardian. You cannot:

- vote for the adult in a government election or referendum
- make, change or revoke their will, power of attorney or advance personal plan (or anything having similar effect)
- exercise their rights as an accused person in criminal investigations or proceedings (including those under the *Mental Health and Related Services Act 1998*, part 10)
- make a decision about or consent to health care that is 'restricted' (see our 'Understanding the NT Guardianship of Adults Act' fact sheet).

You can't make or give effect to decisions about:

- the care and wellbeing of the adult's children or the adult adopting a child
- the adult starting or ending a relationship, or marrying or divorcing.

**i** Please see division 3 'Authority of Guardian' in the Guardianship Act and part 3 'Decision makers' in the *Advance Personal Planning Act 2013*.

## What about specific matters?

### Dealing with property

If you have authority for financial matters, you are subject to the same duties, obligations and limitations of a trustee. You must deal with the adult's property:

- as if you hold it in trust for them, acting only in their interests
- using the skill and judgement a careful, reasonable person would use in their own financial affairs.

### Providing for dependants and giving gifts

If you have authority for financial matters, you may use the adult's property to provide for their dependants or to give a gift if:

- it is something the adult used to do when they had decision-making capacity, or might reasonably be expected to do
- its value is reasonable.

The NTCAT can restrict or expand your authority to provide for dependants and will state this in the guardianship order.

### Accessing information

You have the right to access information relating to the adult, as long as it is:

- relevant to your role as guardian
- limited to matters you have authority for.

If the information you request is refused without reasonable excuse, you can apply to the NTCAT for an order that it be provided.

You must not discuss or disclose the adult's personal and private information to anyone outside your authority as guardian.

### Keeping records and claiming expenses

The NTCAT must approve expenses that you are entitled to claim from the adult in the guardianship order, or a separate order.

It is important you understand what you can and cannot spend and claim, and keep reasonable financial and other records.

You must ask for help from the NTCAT or the Office of the Public Guardian if you are unsure what you can or should do.

## What if your situation changes?

### Changing the guardianship order

You, the adult or an interested person for the adult can ask the NTCAT to reassess the guardianship order at any time.

Before you apply, please speak with our staff at the Office of the Public Guardian about the changes you would like.

### Resigning or needing time off

If you cannot continue in your role as guardian, you can resign by giving notice in writing to the NTCAT.

If you need to take a short absence due to poor health or another reason, you must first let the Office of the Public Guardian know so we can make arrangements for the adult.

If you are the adult's sole guardian, the Public Guardian will act in your place until you return. But it is important that you tell us as soon as you can take up your role again.

### Responding to a death

If the adult or another guardian for the adult dies, you must tell the NTCAT and the Office of the Public Guardian as soon as possible.

## Important documents

- *Guardianship of Adults Act 2016*
- *Advance Personal Planning Act 2013*
- our *Understanding guardianship* guide

If you have any questions, please contact us:



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