

Information for health professionals

In this fact sheet

Health professionals have a role to play in adult guardianship. This fact sheet explains:

How a guardian is appointed	Decision-making capacity and interim guardianship orders
Who can be a guardian	Eligible adults and joint guardians
What role health professionals play	Evidence and expert opinion in medical reports
What health care consent decisions are	General health care, restricted health care decisions and advance personal plans

How is a guardian appointed?

Guardianship applications

The Northern Territory Civil and Administrative Tribunal (NTCAT) has jurisdiction over all guardianship matters.

An adult may have a guardian appointed if the NTCAT is satisfied that the adult both:

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

The NTCAT appoints guardians through a guardianship order under the *Guardianship of Adults Act 2016*.

The adult or any interested person for the adult can apply for an order.

i See our 'Applying for guardianship' fact sheet.

i For more on guardianship applications, visit www.ntcat.nt.gov.au.

Impaired decision-making capacity

An adult may be considered to have impaired decision-making capacity if they have difficulty:

- understanding and remembering information about their personal or financial matters
- weighing up the information to make reasoned and informed decisions
- communicating those decisions in some way, such as by talking, writing or signing.

Their 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 matters or financial matters.

However, an adult is presumed to have decision-making capacity until the contrary is shown.

i Section 5 of the Guardianship Act defines 'impaired decision-making'.

People with cognitive impairment

The Guardianship Act also applies to people with cognitive impairment from any cause. This includes mental illness, dementia, intellectual disability or acquired brain injury.

Providing urgent guardianship

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

Who can be a guardian?

Eligible adults

A guardian may be:

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

Joint guardians

Guardians may be appointed:

- 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.

The NTCAT's guardianship order will state how guardians must make their decisions.

 See our 'What is a guardian?' fact sheet.

What is the role of health professionals in an application?

Evidence and expert opinion

The NTCAT will rely on evidence from a number of sources to determine whether an adult has impaired decision-making capacity.

A health professional familiar with the adult may be asked to complete a medical report giving evidence and expert opinion on the adult's decision-making capacity.

 Please download Form AG3 from www.ntcat.nt.gov.au.

Medical reports

The medical report must include:

- details of consultations, tests and investigations that have happened and the related diagnoses
- an explanation of how the diagnosed condition(s) affects the adult's ability to understand, retain and weigh information, in order to make and communicate reasoned and informed decisions.

What decisions can a guardian with health care authority make?

The Guardianship Act defines health care very broadly. Guardians with authority in this area can generally agree to treatments that:

- require a doctor or dentist to do or supervise
- require prescription medication
- are ongoing, regular or part of a treatment plan while the order is in place.

Restricted health care decisions

Guardians with authority for health care cannot consent to restricted health care decisions. Only the NTCAT can make these decisions, through an application process.

They include:

- actions that result in sterilisation
- termination of a pregnancy
- removal of tissue that won't grow back for transplanting to another person
- health care for medical research
- any other health care regulation restricts.

 See section 8 of the *Guardianship of Adults Act 2016* (restricted health care decisions).

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

Advance personal plans

The *Advance Personal Planning Act 2013* also covers decision-making after a person has lost this capacity. It has been amended to align with the Guardianship Act.

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

Important documents

- *Guardianship of Adults Act 2016*
- *Advance Personal Planning Act 2013*
- *Transplantation and Anatomy Act 2011*

If you have any questions, please contact us:

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