

Understanding the adult guardianship principles

In this fact sheet

The *Guardianship of Adults Act 2016* sets out a series of decision-making principles that all guardians must follow. This fact sheet explains:

What the principles cover	The aim of the principles and who they apply to
What you should consider	Factors like the adult's lifestyle and protection from harm
How you decide what is appropriate	A guide to ensure your decisions are fair and supportive
Who can benefit from your decisions	Help for people other than the adult
How advance care statements affect your role	The importance of these statements and their impact on you

What do the principles cover?

Guardians have a legal responsibility to make good decisions for an adult in areas where the adult lacks the capacity to do so for themselves.

The guardianship principles provide a decision-making framework to help guardians work out what is in the 'best interests' of the adult when a decision is needed.

The principles apply to everyone using their authority under the Guardianship Act. This includes:

- all private guardians
- the Public Guardian
- the Public Trustee
- the Northern Territory Civil and Administrative Tribunal (NTCAT).

It is important when you need to make a decision for the adult that you:

- try to understand their views and wishes
- take into account all relevant considerations
- weigh up the considerations you reasonably believe are appropriate in the circumstances
- make the best decision for them.

i See section 4 of the Guardianship Act for a detailed list of the guardianship principles.

What things should you consider?

Lifestyle and independence

You should consider factors like:

- the adult's current and previously stated views and wishes
- their lifestyle preferences and needs
- their ability to maintain and exercise their freedom of choice
- their emotional, physical, social and intellectual potential
- their ability to live in and be part of the general community
- their overall happiness and wellbeing
- the views and wishes of any 'interested person' for them.

i Please see our 'What is a guardian?' fact sheet for examples of an 'interested person'.

Dignity and protection from harm

You must make decisions to ensure the adult:

- has appropriate care, including health care and personal care
- is protected from harm, neglect, abuse and exploitation
- is treated with dignity and respect.

They also have the right to expect you will:

- keep information about them confidential and private
- protect their property and assets from loss, misuse or damage.

How do you decide what is appropriate?

In deciding what is appropriate in the circumstances, you must use your authority in a way that:

- is least restrictive of the adult's freedom of decision and action
- gives the adult as much support as is practical to make their own decisions.

i Please contact the Office of the Public Guardian if you need help with decisions.

Can your decisions benefit someone else?

You can use your authority in a way that benefits someone other than the adult if that benefit:

- is similar to one the adult provided when they had decision-making capacity
- is one you might reasonably expect them to provide
- is reasonable in the circumstances
- does not significantly adversely affect their best interests.

For example, it may be appropriate for you to make provision from the adult's money for their children's educational expenses, even though this:

- will not directly benefit the adult
- means the money will not be available for the adult's use.

i Please contact the NTCAT or Office of the Public Guardian if you are at all uncertain about a decision.

What if the adult has an advance care statement?

An advance care statement formally sets out a person's views, wishes and beliefs in case someone needs to make decisions for them in the future. People make these statements when they still have decision-making capacity.

If the adult you represent has an advance care statement, you must use your authority to give effect to it. You must do this even if it is not in their best interests.

You can only go against the statement if:

- the adult legally can and does state that they do not wish it to have effect
- other circumstances exist in line with section 23 of the *Advance Personal Planning Act 2013*.

i See our 'Advance personal plans and adult guardianship' fact sheet and sections 3 and 23 of the *Advance Personal Planning Act*.

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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