

What is a guardian?

In this fact sheet

The Northern Territory Civil and Administrative Tribunal (NTCAT) appoints a guardian under a guardianship order to make certain decisions for an adult with impaired decision-making capacity. This fact sheet explains:

How to become a guardian	NTCAT appointments and joint guardianship
What a guardian does	Decisions a guardian can make in line with the guardianship principles
What a guardian must not do	Excluded actions under the Guardianship Act
What to do if you disagree with a decision	Ways an 'interested person' can resolve issues

How do you become a guardian?

Being appointed by the NTCAT

To be a guardian in the Northern Territory:

- you must be aged 18 or over and be considered suitable for the role
- you or someone else must apply to the NTCAT for a guardianship order
- the NTCAT must legally appoint you and you must agree to the role.

The NTCAT will give all guardians a copy of the guardianship order to confirm their authority. It will state how long the order lasts and when it will be reassessed.

A guardian will remain in that role until:

- their appointment ends or they resign
- the order changes or the represented adult passes away.

The Public Guardian and the Public Trustee can also be appointed as guardians.

If you are unsure if an order is in place or need a copy of the order, you can contact the NTCAT for help on 1800 604 622.

Working with other guardians

The NTCAT can appoint two or more guardians:

- **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 does a guardian do?

Making personal or financial decisions

The main task of a guardian is to make good decisions for the person they represent in the areas listed in the guardianship order.

These decisions may relate to:

- personal matters – such as managing housing, health care, work, education, daily activities or types of services
- financial matters – such as managing bills, money, assets, property or investments.

i Please see our 'Information for guardians' and 'Understanding the NT Guardianship of Adults Act' fact sheets.

Looking after dependants

If the guardian has authority for financial matters, they may provide for the needs of a dependant if:

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

Following the guardianship principles

The guardianship principles are a set of decision-making principles all guardians must follow. They state that a guardian must always:

- act in the adult's 'best interests', in a way that least restricts their 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
- use their authority in line with the *Guardianship of Adults Act 2016*, the guardianship order and any other NTCAT order.

i Please see our 'Understanding the adult guardianship principles' fact sheet.

What must a guardian not do?

Exclusions under the Guardianship Act

The Guardianship Act lists actions guardians cannot take, such as:

- voting for the adult in a government election or referendum
- making, changing or revoking their will, power of attorney or advance personal plan (or anything having similar effect)
- exercising their rights as an accused person in criminal investigations or proceedings (including those under the *Mental Health and Related Services Act 1998*, part 10)
- making a decision about or consenting to health care that is 'restricted'.

i See our 'Understanding the NT Guardianship of Adults Act' fact sheet for more on restricted health care.

Decisions about children and relationships

Also, a guardian cannot 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 if you disagree with a guardian's decision?

Resolving issues and seeking help

If you are an 'interested person' for the adult and disagree with a guardian's decision, you can:

- talk to the guardian and try to resolve the issue (if you can do this safely and respectfully)
- ask for help from our staff at the Office of the Public Guardian
- apply to the NTCAT to reassess the guardianship order.

Defining an 'interested person'

An interested person might be:

- the adult's relative or guardian
- the Public Guardian
- the Public Trustee
- an agent for the adult, such as an advocate or legal or financial adviser
- a person primarily responsible for providing support or care to the adult
- anyone else with a genuine and sufficient interest in protecting the adult's best interests.

Important documents

- *Guardianship of Adults Act 2016*
- our *Understanding guardianship* guide

If you have any questions, please contact us:

 1800 810 979

 public.guardian@nt.gov.au

 www.publicguardian.nt.gov.au