
Information guardianship orders - what happens after the hearing?

This information sheet is about guardianship orders made by the Tribunal under the *Guardianship Act* 1987. An information sheet about financial management orders is available from the Tribunal.

At the end of the hearing, the Tribunal will usually tell you what decision it has made.

The Tribunal can make:

- a guardianship order only, or
- a guardianship and financial management order, or
- a financial management order only.

Sometimes the Tribunal will not make any orders. This may be because the problems that led to the application have been resolved, or the Tribunal decides that the person does not need a guardian or financial manager.

Decisions made by the Tribunal are legally binding.

Copies of the Tribunal's guardianship order and reasons for decision will be sent soon after the hearing. These will be sent to:

- the person who the order is about
- the guardian, if one is appointed
- the financial manager, if one is appointed
- the applicant
- the Public Guardian
- any other parties
- any other people or organisations the Tribunal considers appropriate.

What will the guardianship order tell you?

If the Tribunal makes a guardianship order, it will state:

- the name of the guardian
- the decision making functions given to the guardian – these will usually be limited to decisions about matters such as where the person will live, what services they will receive or decisions about their health care and medical and dental treatment
- any conditions that the guardian must observe
- any recommendations the Tribunal makes
- how long the order will last
- if the order is a non-reviewable order.

Responsibilities of a guardian

The Tribunal makes guardianship orders to meet the needs of the person with the disability. Most guardians only need authority for certain kinds of decisions. If this is the case, a limited guardianship order will be made and the guardian's functions listed. Sometimes a guardian may be given full power to make decisions for the person. This is called a plenary order. These are very rare.

The order should restrict the rights and freedom of the person with the disability as little as possible. The guardian is usually required under the order to consult with the person with the disability if they have some capacity to understand and communicate, and to consider their views. If the guardian has any questions he or she can contact the Tribunal.

The Public Guardian

The Tribunal attempts, whenever possible, to appoint a relative or friend of the person to be their guardian. But in many cases, the Tribunal has to appoint the Public Guardian, a NSW Government officer. The Public Guardian will be sent a copy of the Tribunal's order after the hearing. Staff from the Public Guardian's office will then make contact with the person the order is about, and others who are closely involved. The Public Guardian will perform the functions of the guardian outlined in the order in the same way that any guardian would. From November 2007 the Office of the Public Guardian's new head office is located in the Parramatta Justice Precinct. The street address is 160 Marsden Street (near the corner of George St) Parramatta NSW 2150. Phone: (02) 8688 2650 or toll free: 1800 451 510.

How long will the guardianship order last?

The order will tell you how long it lasts. Most initial orders can be made for any period up to one year. However, if certain criteria are met, they may be made for up to three years. After they are reviewed most can be renewed for up to three years at a time. If certain criteria are met, the order may be renewed for up to five years.

The Tribunal can make a non-reviewable order if it determines that such an order is appropriate in the circumstances and is in the best interests of the person with a disability. This means that the order will lapse at the end of the time period specified in the order unless the Tribunal is asked to conduct a review. Anyone with a genuine concern for the welfare of the person can request a review.

Temporary orders can only be made for up to 30 days and are reviewed and renewed for a further 30 days if necessary. The Public Guardian must be appointed for all temporary orders.

Reviews of guardianship orders

Statutory Reviews

Unless the Tribunal states it does not intend to review an order, the Tribunal reviews all the guardianship orders it makes.

The review will involve a hearing. Sometimes review hearings are conducted by phone and sometimes the person, their guardian and other interested people will be asked to attend. At the review hearing, the Tribunal will consider:

- whether there is any need to continue the order whether the existing order should be renewed for a further period of up to three years (or five years if certain criteria are met)
- whether any changes need to be made to the order.

Request for review

If anyone is concerned about how the guardianship order is working or how the guardian is performing their functions, they can ask the Tribunal to review the order.

The Tribunal can refuse a request to review a guardianship order. This may happen if the application does not disclose grounds that warrant a review or the Tribunal has previously reviewed the order.

Note – a review is not an appeal. If you are a party to the application and you disagree with the decision made by the Tribunal, you may appeal the decision in the Supreme Court or the Administrative Decisions Tribunal.

What if the guardian needs some guidance from the Tribunal?

The person who has been appointed guardian can apply to the Tribunal at any time for directions about how to do what the order says. This normally involves

a hearing, and the Tribunal may then give directions to help the guardian.

Private Guardian Support Unit

The Public Guardian has a unit to provide support to private guardians. Phone the unit on (02) 8688 6060 for more information.

Appeals

Anyone who has been a party to a guardianship application can appeal a decision of the Guardianship Tribunal to the Supreme Court or the Administrative Decisions Tribunal. A party is:

- the applicant
- the person the application is about
- the spouse, if any, of the person the application is about
- the carer, if any, of the person the application is about (excluding paid carers)
- the Public Guardian
- any person the Tribunal has joined as a party.

An appeal can be made about a question of law or, with the permission of the Supreme Court or the Administrative Decisions Tribunal, on any other question. A solicitor should be consulted before an appeal is lodged.

Appeals must be lodged with the Supreme Court or Administrative Decisions Tribunal within 28 days of receiving the Guardianship Tribunal's written reasons for decision.

For more information contact

Guardianship Tribunal

Telephone (02) 9556 7600

Toll free 1800 463 928

Facsimile (02) 9555 9049

Telephone typewriter
(02) 9556 7634

Email gt@gt.nsw.gov.au

Website www.gt.nsw.gov.au

Level 3, 2a Rowntree Street, Balmain NSW 2041

Postal address Locked Bag 9, Balmain NSW 2041

Office of the Public Guardian

Telephone (02) 8688 2650

Toll free 1800 451 510

Email informationssupport@opg.nsw.gov.au

Website www.lawlink.nsw.gov.au/opg