

Guardianship and the Public Advocate

The Public Advocate can be appointed by the South Australian Civil and Administrative Tribunal (SACAT) as a person's guardian if:

- The person is unable to make their own decisions*
- There is a lifestyle, accommodation, and/or health decision to be made
- There is no other appropriate person to be appointed

The Public Advocate gives staff at the Office of the Public Advocate (OPA) authority to make decisions on behalf of a person under guardianship.

The Public Advocate can allow staff to:

- Make decisions on behalf of the person
- Advocate for access to services
- Promote coordination of services

SACAT decides whether the Public Advocate should make decisions about:

- Accommodation (someone's living arrangements)
- Health (for example, consent to medical or dental treatment)
- Access (who a person spends time with), or
- Lifestyle (appropriate support services).

Full Guardianship is where the Public Advocate is responsible for all major personal decisions that affect someone's health and wellbeing.

When making decisions for someone, SACAT and the Public Advocate (and staff) must consider:

- The past and present wishes of the person
- The adequacy of any existing informal arrangements
- The least restrictive option
- The person's proper care and protection

Staff will gather information about the person's:

- History and personal circumstances
- Wishes
- Treatment and support needs

Staff may gather this information by:

- Meeting with the person
- Meeting with people who are involved in the person's care
- Gathering assessment reports
- Requesting information in writing
- Seeking the views of the person if they can participate in decision-making
- Talking with family members and friends who have an active role in the person's life

Staff will make decisions by:

- Applying the principles of the Guardianship and Administration Act
- Considering the person's lifestyle and wishes
- Considering the person's health, wellbeing and safety

Disagreement with decisions made by staff can be addressed by:

- Requesting a review of the decision by senior staff in the Office of the Public Advocate (For further information, please see the "[OPA Complaints Policy](#)")
- Seeking the assistance of an advocacy service
- Applying to SACAT for review, variation or revocation of the Guardianship Orders. (See SACAT information about [Reviews and Appeals](#))

The Public Advocate is an independent statutory officer, accountable to the South Australian Parliament. The Office is separate from the South Australian Civil and Administrative Tribunal (SACAT) and from the Public Trustee.

* In the *Guardianship and Administration Act 1993* being unable to make decisions is referred to as "mental incapacity".