

FACT SHEET

ENGLISH LANGUAGE

Guardianship Orders

If there are decisions that need to be made for a person with a mental incapacity, the South Australian Civil and Administrative Tribunal (SACAT) can make a Guardianship Order.

A Guardianship Order:

- Is a legal document.
- Can appoint one or more guardians to work together or separately.
- Can appoint a guardian to make specific decisions, for example about accommodation, health care and/or lifestyle decisions.
- Must be reviewed within 3 years, on a date specified by SACAT (this is not an expiry date).
- Can be varied or revoked if there is a change in circumstances.

A Guardianship Order may be made if:

- There is no one to help informally (family or friends).
- There is no 'Person Responsible' to make health care decisions.
- Informal support/arrangements are not working.
- The person does not agree with the informal decisions being made.
- There is no Advance Care Directive in place.
- There is conflict about decisions or decision-makers.

A guardian:

- Would preferably be a family member or friend, who knows the person well.
- Must not be a paid carer.
- Can be the Public Advocate as a last resort.
- Should consult with the person.
- Should consult with family and anyone who has an interest in the person's wellbeing.
- Should consult with relevant professionals and support agencies.
- Should follow any instructions in a valid Advance Care Directive.
- Must respect the person's wishes.
- Must respect the person's cultural background.
- Must maintain confidentiality as far as possible.

The Tribunal and guardians 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.

You can apply to SACAT:

- To review or appeal a Guardianship Order.
- To review or appeal a decision of the Tribunal.
- To obtain Special Powers.

For more information about making an application to SACAT, please see our "Applying to SACAT" Fact Sheet.