

Guardianship and the Public Advocate



The Public Advocate can be appointed by the South Australian Civil and Administrative Tribunal (SACAT) as a Guardian of Last Resort if:

- A person has a mental incapacity.
- There is a lifestyle, accommodation, and/or health decision to be made.
- There is no other appropriate person to be appointed.

A person under guardianship is allocated a particular advocate/guardian, or a team of guardians, who will get to know their circumstances and concerns.

The guardian (or team) can then:

- Make decisions on behalf of the person.
- Advocate for access to services.
- Promote coordination of services.
- Facilitate communication and conflict resolution, if it is relevant to the person's wellbeing.

SACAT decides whether a guardian should make decisions about:

- Accommodation (someone's living arrangements)
- Health (For example, consent to medical or dental treatment)
- Access (who a Protected Person spends time with), or
- Lifestyle (appropriate support, education, employment).

Full Guardianship is where a guardian is responsible for all major personal decisions that affect someone's health and wellbeing.

When making decisions for someone, SACAT 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.

A guardian will try to gather information about the person's:

- History and personal circumstances
- Wishes
- Assessments of their treatment and support needs, and
- Any risks or need for protection.

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A guardian will gather this information by:

- 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 are capable of participating in decision-making.
- Talking with family members and friends who have an active and positive role in the person's life.

A guardian will make decisions by:

- Applying the principles of the *Guardianship and Administration Act*.
- Supporting the person's lifestyle and wishes.
- Considering the person's health and wellbeing.

If you disagree with decisions made by a delegated guardian, you can:

- Request a review of the decision by senior staff in the Office of the Public Advocate (For further information, please see our "OPA Complaints Policy").
- Seek the assistance of an advocacy service.
- Apply to SACAT for variation or revocation of the Guardianship Orders.
- Apply for the Guardianship Order to be reviewed by senior members of SACAT (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).