



**PUBLIC TRUSTEE
AND GUARDIAN**

GUIDELINES – SALE OF REAL ESTATE BY FINANCIAL MANAGER

These guidelines have been prepared to assist (financial/property) managers appointed by the ACT Civil and Administrative Tribunal (ACAT) in the sale of property.

Where the ACT Civil and Administrative Tribunal (ACAT) appoints a person as Manager to manage property on behalf of a protected person, the order will state that any dealing with the person's property must have the prior endorsement of the Public Trustee and Guardian for the ACT (PTG).
(property above means real property)

Managers seeking the Public Trustee and Guardian's endorsement should -

1. Provide a letter containing the following -

- a request for endorsement of the sale accompanied by payment of a fee equal to the Public Trustee and Guardian's hourly rate (please check at the time of payment);
- identifying the property to be sold;
- setting out the reasons for sale;
- stating the views of the person – if possible;
- where appropriate - a letter from the guardian, carer and/or immediate

family stating whether they agree to the proposed sale,

- stating the manager's preferred method of sale
- the recommended listing price and minimum negotiable price in the case of sale by private treaty having regard to the terms of the agents' reports as detailed in 3 below;
- annexing copy of the person's last known Will and testament. This is essential to ensure that the proposed sale is not affecting any beneficiaries' entitlements under the terms of the Will. If the manager is not aware of any last Will and testament executed by the person, the manager is required to provide written confirmation that all attempts to locate a Will have failed.
- annexing reports from a least two local real estate agents setting out -
 - a description of the property and improvements;
 - suggestions of any work required to make the property more attractive/saleable and the approximate costs thereof;



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- an estimate of the current market value of the property;
 - the recommended method of sale ie private treaty/public auction and a schedule of the agent's commission/ advertising costs; and
 - obtain a valuation from a property valuer, where appropriate.
2. Where sale is by private treaty the manager's submission should include -
- the advertised sale price: and
 - the minimum price that will be accepted if the advertised sale price is not achieved.
3. Where sale is by public auction manager's submission should include -
- details of the marketing period;
 - the date of auction; and
 - the reserve price, and should there be any proposed variation to that amount closer to the date of the auction, permission from the PTG must be sought, at least 48 hrs prior to the date of auction.

Consent to Sale

Once PTG is satisfied that it is in the best interests of the person for the sale to proceed, a letter of consent will be provided to the solicitor acting for the person on the basis that -

- the sale is in the best interests of the person;

- the property will be sold for its true market value;
- the sale proceeds will be re-invested in the person's name in accordance with section 24 of the Guardianship and Management of Property Act 1991 which refers to the Trustee Act 1925 (specifically s 14 identifying 15 investment criteria which should be followed where applicable). Refer - www.legislation.act.gov.au.

Sale of Property

Sale by Auction

After the sale is completed, the solicitor acting for the person should forward a copy of the front page of Exchanged Contract for Sale.

PTG will then provide a letter addressed to the ACT Registrar-General for endorsing the transfer of the title.

Sale by Private Treaty

When a sale has been finalised, the solicitor acting for the person should forward a copy of the front page of the signed Contract for Sale. PTG will then provide a Letter of Endorsement to the sale and a letter addressed to the Office of Regulatory Services (Land Titles) agreeing to the transfer of the title.

If PTG has any concerns regarding the sale, the matter will be referred back to the manager or, if appropriate, to ACAT for direction.

Please contact PTG on Ph 62079800 for further information.