



**PUBLIC TRUSTEE
AND GUARDIAN**

INFORMATION ABOUT OUR SERVICES

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The Public Trustee and Guardian for the Australian Capital Territory was established by the *Public Trustee Act 1985*.

The role of the Public Trustee and Guardian is to provide the ACT community with secure, efficient, competitive and caring trustee, estate administration and will-making services.

Why Choose The Public Trustee and Guardian?

The Public Trustee and Guardian specialises in Will-making, Powers of Attorney and Estate Administration and is appropriately qualified to advise you.

The Public Trustee and Guardian prepares Wills when named as Executor. A small fee may be charged for this service.

Estate administration charges are not incurred until after you die, at which time the Public Trustee and Guardian fulfils the role of Executor. When your assets are distributed, your estate will be charged a small percentage of its total value. Our maximum rates are strictly controlled by legislation. Joint tenancy assets attract no commission.

Wills

Making a Will is the best way to provide for your assets to be distributed after your death according to your wishes. A valid Will may save family and friends unnecessary difficulties in the event of your death.

If you die without a Will, the Court may appoint someone to administer your estate. If you make a Will, you choose your Executor.

The Public Trustee and Guardian specialises in making Wills. When you appoint the Public Trustee and Guardian as your Executor, we will undertake responsibility for the administration of your estate and the distribution of your assets according to your wishes.

Choosing the Public Trustee and Guardian will ensure that your estate is administered competently, impartially, expeditiously and with empathy.

Your Will is probably the most important document you will ever sign and should be prepared by an expert. The Public Trustee and Guardian has legal, accounting, taxation and investment professionals on staff.



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The Public Trustee and Guardian can help review an existing Will or make a new one at highly competitive rates.

Where a person dies leaving a Will

The Public Trustee and Guardian may administer the estate of a person who died leaving a Will:

- if the Public Trustee and Guardian is the Executor named in the Will;
- if the Executor is unwilling to act, is not living in the ACT, or is deceased; and/or
- if the named Executor is removed by the Court.

Where there is no Will (Intestate)

A person dying without a Will is said to have died intestate. If there are assets, the court may appoint an Administrator who will administer and distribute the estate in accordance with the laws of intestacy. These laws can vary between each State and Territory and do not necessarily cover all individual family circumstances.

In this situation any family member who is entitled to administer the estate, may ask the Public Trustee and Guardian to administer the estate of a person who dies without leaving a Will.

As your Administrator, the Public Trustee and Guardian:

- Prepares court documents and obtains grants of administration.
- Prepares taxation returns and conveyancing documents as required.
- Invests all funds held during the administration and pays interest at competitive rates on those funds.
- Reports to the beneficiaries, during and at the completion of the estate administration.

Estate Administration

This is a major function of the Public Trustee and Guardian and estates can be administered under the terms of the Will or under the laws of intestacy where no Will has been made.

Trust Administration

Trusts are created for a number of reasons – to provide ongoing support for a beneficiary under your Will, to provide tax effective estate planning or to benefit a charity. A Trust can secure your assets, so that your children and dependants can benefit from them later.

For example, part of your estate can be held in trust for a specified time. This can secure your



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child's education and needs until they reach 18 years or when they complete their education.

The Public Trustee and Guardian can be appointed as trustee of any property by Will, by deed or by the Court. If a Trustee dies or wishes to retire, the Public Trustee and Guardian can be appointed as replacement trustee.

Due to their long term nature, care, consideration and experience are essential when establishing trusts.

Trustee for people with a disability and for children

The Public Trustee and Guardian will act as trustee for people who have been awarded financial compensation and the Court has directed the Public Trustee and Guardian to administer the funds on a person's behalf. Generally, the funds are managed until the child reaches 18 years.

Enduring Powers of Attorney

When accidents, sudden illnesses or unexpected absences occur, you may need someone to manage your affairs.

The Public Trustee and Guardian has the necessary experience to act as your independent and accountable attorney. We can assist you to meet your obligations and manage

your affairs, when you cannot manage them yourself.

The person you appoint as your Attorney will manage your affairs in accordance with your instructions. This will continue even while you are ill or otherwise unable to manage. Your attorney is under no legal obligation to report to any other person about the management of your affairs.

Guardianship

In the ACT, a Guardian is a person appointed by the ACT Civil and Administrative Tribunal (ACAT) under the *Guardianship and Management of Property Act 1991*.

A Guardian is appointed to make a range of personal and health decisions for a person who is found by ACAT to have a decision-making disability. For the purposes of that Act, a person under guardianship is referred to as a Protected Person.

A Guardian may be an individual or the Public Trustee and Guardian. The Public Trustee and Guardian may only be appointed as guardian as a last resort ie only where an individual is unavailable, unsuitable or unwilling to be appointed or, if the willing parties are in conflict about the needs and interests of the protected person.



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The role of the guardian is to act as substitute decision-maker for the protected person.

When appointed as Guardian, the Public Trustee and Guardian may make decisions about -

- where and with whom the person lives;
- the education or training the person receives;
- whether the person is to be allowed to work;
- if the person is allowed to work - and, if so, the nature of the work, place of employment and employer;
- consent for medical procedures or other treatment; or
- bringing or continuing legal proceedings for the person.

Personal Financial Management

The Public Trustee and Guardian takes on special responsibilities for people who may be unable to manage their own affairs due to accident, illness or disability.

The ACT Civil and Administrative Tribunal (ACAT) may appoint the Public Trustee and Guardian by a Management Order to represent the interests of such a person's estate where

there is no workable enduring power of attorney already in place.

The Public Trustee and Guardian will manage the person's financial affairs and, where appropriate, consult with family members, a case worker and the client, to ensure that all available funds and resources enhance the client's well-being and lifestyle (see also brochure "When you are Unable to Manage Your Affairs").