

Guardianship and Administration Procedure

1. Purpose

This procedure outlines actions when making an application for Guardianship and Administration for a person identified as having reduced capacity to make decisions for themselves.

The procedure is underpinned by the following principles:

- We assume people have capacity to make decisions for themselves and support them to do so whenever possible
- We act in the person's best interests ensuring the least restrictive options
- We acknowledge some people may not have capacity to make decisions and require the appointment of a Guardian or Administrator

2. Scope

This procedure applies to all people engaged in work for Avivo and our customers.

3. Procedure

An application for Guardianship and Administration is made when there is evidence that:

- a person has limited decision making capacity and is making decisions which affect their personal safety and well-being i.e. potential abuse, neglect or exploitation
- others are making decisions that are not in the person's best interests
- all less restrictive options and safeguards have been considered, such as supported decision making, informal advocacy, advanced health care directives

In some situations the need for a Guardian or Administrator is urgent and an application needs to be made to protect the person, without other less restrictive options and safeguards being implemented. When making an application:

1. Provide a report to the Area and General Manager, outlining the risks and rationale prior to commencing the application process. The Area Manager will inform the Restrictive Practices Consultative Committee of any application made to the State Administrative Tribunal (SAT) for Avivo customers.

2. Discuss with the person and relevant parties:

- the need for a Guardianship and Administration application
- the range of decisions that a Guardian or Administrator is required for
- who might most effectively take the role(s) of Guardian or Administrator. Alternatives include:
 - Relatives or friends
 - A Guardian appointed from the Office of the Public Advocate
 - A Financial Administrator, or for the the Public Trustee to take the role of Administrator

Any interested party can lodge an application and in exceptional cases the SAT will appoint a paid supporter as a Guardian, e.g. the supporter provided foster care to the individual whilst they were a child and has established a parental type relationship with them.

Avivo **do not** endorse employees, shared living supporters, or their family members or any other person paid to support the person to take the role of guardian or administrator due to the potential conflict of interests.

3. Who is best placed to prepare and submit the application:

- It is preferable that the application is made by the person and / or their relative. Avivo will only make the application if there is no other alternative.
- The nominated person prepares the application with assistance from other parties as needed and lodges it with SAT - <https://www.justice.wa.gov.au/SATeForm/default.aspx>. SAT may contact Avivo and interested parties for further information.

SAT will notify all interested parties of the date of the Hearing. The person whose interests are being considered is encouraged to attend but may be excused if there is sufficient reason (e.g. person becomes distressed in unfamiliar environments).

Avivo employees are not required to attend the SAT hearing, unless they made the application. There may be circumstances whereby it is appropriate to support the person by attending the hearing. Any participation in SAT hearings must be approved by the Area Manager.

4. Related Documents

- Working with Vulnerable People Policy (OP-POL-611)
- Working with Vulnerable People Framework (OP-FRM-612)
- The Guardianship and Administration Act (1990) (the Act)

5. Definitions

The Guardianship and Administration Act (1990) (the Act) - Legislation that governs the process of applying for, appointing and reviewing matters related to guardianship and administration. The Act recognises that people who are not capable of making reasoned decisions for themselves, may need additional support and assistance to ensure their needs are met, their quality of life is maintained and they are protected from neglect, exploitation and abuse.

The State Administrative Tribunal (SAT): - SAT is the legally constituted body charged with hearing all applications for guardianship and / or administration and making a determination regarding whether to approve the application. In all instances where people are not capable of making reasoned decisions, the State Administrative Tribunal will seek to appoint a Guardian and / or Administrator and has the authority to nominate an appropriate person, determine the level of guardianship, review dates and who will take that role.

Guardian - Someone who is appointed by the State Administrative Tribunal to make personal decisions for a person with a decision-making disability. The Guardian can make personal, medical and lifestyle decisions on behalf of a person but is not responsible for their financial affairs. The decision-making authority may be limited to specific areas such as accommodation, medical treatment, health care or contact with others (Limited Guardian), or may apply to all areas of a person's life (Plenary Guardian).

Administrator - Someone who is appointed by the State Administrative Tribunal to make financial and estate decisions for a person with a decision-making disability.

The Public Trustee - Is a statutory body established by the Public Trustee Act 1941. An administrator whether a family member, or from the Public Trustee's office has a responsibility to ensure that the person's estate is properly managed and maintained.