

WHAT IS THE GUARDIANSHIP AND ADMINISTRATION BOARD?

fact sheet one



The Guardianship and Administration Board (Tasmania) is a specialist tribunal established under the *Guardianship and Administration Act 1995 (Tas)*. The Board conducts hearings to determine applications about adults with a decision making disability who are incapable of making their own decisions and who may require a legally appointed substitute decision maker.

A substitute decision maker is a person who has been appointed with legal authority to make decisions on behalf of another person who is incapable of making a decision because of a disability.

The Board can appoint the following substitute decision makers:

- A [guardian](#) to make decisions about specific personal (non-financial) matters arising in the life of a person with a disability, for example a possible change of accommodation or to decide a dispute about whether certain health care services are required.
- An [administrator](#) to manage the estate of a person with a disability in his or her best interests

The Board receives annual reports and periodically reviews the appointments of guardians and administrators to ensure that the order remains necessary and that the person appointed is meeting their statutory duties.

The Board can make substitute decisions on behalf of a person with a disability, including:

- Giving [consent to medical or dental treatment](#) in circumstances where there is no [person responsible](#) or for [special treatments](#).
- Approving the use of a [restrictive intervention](#)
- Making a [statutory will](#) for a person with a disability who has not previously made a purported will
- Giving [advice and direction](#) to an administrator, a guardian, an enduring guardian or an enduring attorney

The Board keeps a register of [enduring guardianships](#) (ie. privately appointed guardians).

The Board can review privately appointed substitute decision-makers i.e:

- [Enduring powers of attorney](#)
- [Enduring guardians](#)

The Board considers applications about people who are in Tasmania or who have property or other financial assets in Tasmania. The Board is funded through the Department of Justice, but the Board is independent of Government in its decision-making functions.

Who can make an application to the Board?

Any person who has a genuine concern for a person with a disability can make an application to the Board. There is no cost in making an application. The Board recommends that you discuss your concerns with a staff member of the Board before you complete an application form.

How is an application decided by the Board?

Most [applications](#) need to include a [Health Care Professional Report](#) from a medical practitioner or psychologist which provides evidence about the capacity of the person with a disability to make decisions about the issues raised in the application.

The Board's investigative staff will contact persons relevant to an application and obtain copies of any other relevant documents. Usually an investigation is completed within 45 days of receipt. If the investigator considers that the application is unnecessary, an applicant will be invited to withdraw an application.

When the investigation is complete, all of the relevant persons (including the person with a disability) will be invited to a hearing. Hearings are less formal than court proceedings and generally proceed like a structured discussion of the issues. There are [videos](#) on the Board's website which describe a hearing process.

In an [emergency](#), a short term (up to 28 days) order may be made without a hearing. In these circumstances, only the [Public Guardian](#) or the [Public Trustee](#) can be appointed as a substitute decision maker.

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The Board must consider the tests in the legislation that relate to each type of application. The Board must also adhere to the principles in the *Guardianship and Administration Act 1995* (Tas) which are:

- (a) to adopt the means which is the least restrictive of a person's freedom of decision and action as is possible in the circumstances,
- (b) to promote the best interests of a person with a disability, and
- (c) to carry the wishes of a person with a disability into effect, if possible.

Who are the members of the Board?

Members of the Board are persons appointed by the Governor of Tasmania for their skills and expertise in making decisions about persons with disabilities. The Act requires that there be 5 members of the Board and a President and Deputy President. The President is a lawyer and other members may have skills and experience in accounting, social work, legal practice, health and welfare services. Information about the Board members is published annually in the Board's [Annual Reports](#).

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