

The attached Notice of Hearing is informing you of a Guardianship and Administration hearing at the State Administrative Tribunal (SAT).

This means you are involved in a Guardianship and administration matter, because:

- you applied for a review of a guardianship or administration order,
- you are the subject of a guardianship or administration order, or
- you have an interest in the outcome, such as a family member, caregiver, medical service provider, or other interested party.

The Notice of Hearing tells you the time, place and date of the hearing. Most hearings take place at the SAT offices, which are located at 565 Hay Street, Perth 6000.

## What is guardianship and administration?

If someone has a decision-making disability, a guardian or an administrator can be appointed to make decisions for them.

A **guardianship** order appoints a guardian to make personal, medical and lifestyle decisions.

An **administration** order appoints an administrator to make financial decisions.

Many people with a decision-making disability need both types of orders.

An appointment can cover all decisions (a **plenary** appointment), or it can be limited to certain types of decisions (a **limited** appointment). The type of appointment depends on the person's best interests.

For more information on guardianship and administration, visit the Office of the Public Advocate's website at [www.publicadvocate.wa.gov.au](http://www.publicadvocate.wa.gov.au).

## Why is there a hearing?

SAT is holding a hearing to assess whether the person who is the subject of the hearing has a decision-making disability, and whether they need a guardian or administrator.

The Tribunal's primary concern is the best interests of that person. SAT will presume the person is capable of making decisions for themselves until there is sufficient evidence otherwise.

If incapacity is established, it is then determined whether a guardian or administrator is necessary, and who is suitable for appointment.

Appointing a guardian or an administrator is a serious matter. SAT will not make an appointment if matters can be managed in a less restrictive way through informal arrangements, or an existing enduring power instrument.

The same person can be appointed as both administrator and guardian, or multiple people can be appointed as joint guardians or joint administrators. Again, the best interests, needs and wishes of the person who is the subject of the application are the Tribunal's primary concern.

## **Do I have to attend?**

You have received this Notice of Hearing because SAT believes your views may be important in deciding if a guardian or administrator is still necessary, and determining the best interests of the represented person.

Whether you should attend depends on your role in the hearing:

### **Applicant**

The applicant must attend, and must also arrange for the person subject of the application to attend.

If that person would be distressed by attending the hearing, or cannot make a meaningful contribution, you must advise SAT prior to the hearing.

### **Person who is the subject of the application**

It is important that you attend so SAT can determine your views on the guardianship or administration arrangement.

### **Current guardian or administrator**

You must attend if you are the current guardian or administrator. You cannot be appointed unless you attend.

### **Family member/interested parties**

Attending allows SAT to understand your position towards the review.

## **What happens at the hearing?**

The hearings are not formal, and the SAT member in control of the hearing will give you an opportunity to be heard. You do not need to make formal written submissions.

During the hearing, the member will:

- discuss the application and the written information on the SAT file;
- ask attendees for information, and
- discuss the issues and information so that parties can comment.

Hearings commonly take about one hour but may be longer in more complex cases.

Please note that hearings are recorded to create an official record.

## **What happens at the end of the hearing?**

Depending on what happens during the hearing, there are several potential outcomes.

- A decision is usually given at the end of a hearing, and issued in writing a few days after the hearing.

- If SAT needs more time to consider their decision, they may reserve their decision and issue it at a later date.
- The hearing may be scheduled for another hearing if SAT decides it needs more evidence, or if a keyperson was not present to provide information. SAT can order parties to provide documents for the next hearing.
- Sometimes SAT will ask the independent Public Advocate to investigate the application and report to the Tribunal. If this happens, the Public Advocate will contact you to discuss the application. This usually happens before the first hearing, but can happen at any stage of the application.

You will receive a SAT order with a short description of the outcome of the review, which does not go into details of the reasons for the decision. A party can request SAT to provide reasons for the decision.

A request must be made within 28 days after the decision is given. You will receive reasons written by SAT, or a recording of the hearing where the decision was made.

## **How long does a guardianship or administration order last?**

A guardian or administrator can be appointed for any period, up to a maximum of five years.

When a guardianship or administration order is due for review, SAT organises a review to make sure the current situation is working well. A review process can confirm the order, revoke it, or replace it with an order on different terms. A review can also be requested at any time by:

- a guardian or an administrator,
- the represented person,
- the Public Advocate, or
- the Public Trustee.

Other people can request a review of an order, but SAT must approve the request.

## **Costs and fees**

Generally, parties before the Tribunal bear their own costs, but the Tribunal can order that one party pay another party's costs. Costs orders by the Tribunal are rare. An order may be appropriate due to:

- the conduct of the parties; or
- the nature of the matter.

The Guardianship and Administration Act 1990 includes a specific power for awarding costs, in addition to the Tribunal's general power. Section 16(4) allows SAT to award costs when a party has acted in the best interests of a proposed represented person. As with other costs applications at SAT, they are not commonly awarded and additional factors are needed.

For example, costs may be awarded when there are:

- serious allegations of abuse, and legal advice and representation is required to present a reasoned case in a timely manner;
- parties in conflict, to such an extent it is unlikely the history and needs of the proposed represented person could be presented to the Tribunal without legal assistance; or

- issues which make the application complex or unique.

SAT cannot retrospectively authorise the payment of costs when costs have already been paid by, or out of the assets of, the proposed represented person.

If you require any further information in regards to costs, please visit [www.sat.justice.wa.gov.au](http://www.sat.justice.wa.gov.au)

## Do I need a lawyer?

If you are the subject of the application, you can represent yourself, or can be represented by a lawyer. Most guardianship and administration hearings are conducted without legal representatives.

With SAT's permission, a non-lawyer can represent you. If you are the subject of the application and SAT believes legal representation is necessary, it may apply for Legal Aid representation on your behalf.

Please note that SAT staff are not able to offer legal advice.

## What do I need to do now?

You can attend the hearing, and you can also bring information you think is relevant. If there is anything you are required to bring, SAT will request you to bring it. If you are unable to attend the hearing, you can contact SAT and request to attend by telephone.

## Accessing SAT

SAT's offices are at 565 Hay St, Perth, near the City of Perth Town Hall and the City of Perth Library. There are listing display screens on the ground floor which let you know which room the hearing is in. You can proceed directly to the room where your hearing is taking place. Alternatively, the reception desk for enquiries is located on level 6.

## Help and Support

The Tribunal offers a range of support services including disability support, interpreting services, referrals to the Senior Aboriginal Advisory Officer and many more. Please ensure that you let the Tribunal know what kind of specialist support you need as early as possible using the Tribunal's Specialist Support Team on our website or on the following dedicated Specialist Support Team line: (08) 9219 3050.

Some examples of the specialist support the Tribunal can assist with:

- Mobility access;
- Hearing and visual aids;
- Interpreter services;
- Referrals to the Senior Aboriginal Advisory Officer; and
- Other arrangements as required