

## Practice Note 9

# Proceedings under the *Guardian and Administration Act 1990*

### What is this document?

Procedures for applications under the Guardianship and Administration Act 1990 are generally informal and aim to make the process as accessible as possible to the parties.

This document gives information about how to make an application and how it will be dealt with by the Tribunal. It is a practice note issued by the Rules Committee of the Tribunal under section 33 of the State Administrative Tribunal Act 2004.

If you need help understanding this document please contact the Tribunal on (08) 9219 3111 or 1300 306 017 or [sat@justice.wa.gov.au](mailto:sat@justice.wa.gov.au)

### Making an application

#### How do I apply?

Guardianship and administration applications need to be made electronically via the eCourts portal. <https://ecourts.justice.wa.gov.au/eCourtsPortal/>

In exceptional circumstances the Executive Officer may consider accepting an application in another form.

#### What information do I need to include?

So that your application can be lodged and processed efficiently:

- answer all mandatory fields on the application form;
- give as much information as possible;
- attach any documents you think relevant including medical and other reports; and
- provide the current location and address of where the proposed/represented person is living.

## What happens after an application is filed?

The Tribunal will arrange a hearing for the applicant, proposed/represented person and interested parties to attend so that it can obtain all the relevant information for the Tribunal to make a decision.

In some cases the Tribunal may make a decision on the documents provided to the Tribunal without the need for a hearing.

Tribunal staff may contact you for further information about your application, and may contact doctors and other professionals for a report where the applicant is unable to supply relevant medical evidence.

Sometimes the Tribunal will ask the Public Advocate to investigate the matter and report to the Tribunal. If this happens, the Public Advocate will contact you to discuss your application. The Public Advocate is an independent statutory officer appointed under the Guardianship and Administration Act 1990 to promote and protect the rights of adults with decision-making disabilities to reduce their risk of neglect, exploitation and abuse.

## How do I know what information the Tribunal has?

The Guardianship and Administration Act 1990 gives parties certain rights to inspect, or otherwise have access to, documents on the Tribunal's file, unless the Tribunal orders otherwise.

Requests to access documents should be done by completing the Tribunal's prescribed form called *Request for access to transcripts and or documents under the Guardianship and Administration Act 1990*. This can be found on the State Administrative Tribunals website via the *Practice Notes, Forms and Info Sheets* link. <http://www.sat.justice.wa.gov.au/F/forms.aspx>

## The hearing

### When will the hearing occur?

The hearing will usually be 6 to 8 weeks after the application is received. Depending on the risks associated to the proposed/represented person hearings can be held sooner.

### How will I know when the hearing will be?

The Tribunal will send a notice telling you and other interested parties the date and time of the hearing. It will also arrange personal service of the notice to the proposed/represented person.

Ordinarily, parties must be given 14 days' notice of the hearing. In exceptional circumstances, this period may be shortened.

### Who will be at the hearing?

It is your responsibility to attend the hearing and arrange for the person the proposed/represented person to attend as well.

If the proposed/represented person would be distressed by attending a hearing, or can make no meaningful contribution, you must advise the Tribunal.

Other interested parties whom the Tribunal has notified of the hearing may also attend. Occasionally the Tribunal will ask a doctor, social worker or other professional person to attend, either in person or by telephone or video link.

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

Most hearings are held before a single Tribunal member. Complex matters may be heard by three members. The member will discuss the application and will ask those present for information relevant to the matter. The member will advise of the documentation they have on file, and may allow parties to view certain documents, or read out documents, so that parties can comment on them. Hearings are recorded.

### **How long will the hearing take?**

Hearings commonly take about one hour but may be longer in more complex cases, or where there are multiple applications.

Occasionally the hearing may be adjourned if the Tribunal decides it needs more information.

### **Is the hearing private?**

Hearings are open to the public unless the Tribunal orders them closed.

### **What if someone needs an interpreter or other assistance at the hearing?**

Contact the Tribunal's support staff on 9219 3111.

### **Directions hearing**

In some complex cases the Tribunal may hold a preliminary hearing, before the final hearing, to give directions about when the hearing will be, where it will be, who will attend and what information is to be provided before or at the final hearing.

### **Mediation**

Where there is disagreement between family members or other parties, the Tribunal may decide they should attend mediation.

Mediation is separate from the hearing and is conducted by a trained mediator who is a member of the Tribunal. It aims to assist parties to resolve their differences about what is best for the proposed/represented person.

## The decision

### When will I get the decision?

Decisions and reasons are generally given orally at the end of a hearing. A formal written order of the Tribunal will be issued shortly after.

Sometimes the Tribunal will reserve its decision, in which case it will advise the parties by way of order that the decision is reserved and will be delivered in 90 days. If the Tribunal reserves its decision it must give its reasons within 90 days or such longer period as the President allows.

### Can I get written reasons?

Any party may ask for written reasons. A request must be made within 28 days after the decision is given. The Tribunal must give written reasons within 90 days of the request or such longer period as the President allows.