

Enduring Guardianship *infosheet*



What is an enduring guardian?

An enduring guardian is a **person you appoint to make your personal or medical decisions in case you are unable to decide for yourself** because of an accident or an illness.

As adults, we can choose where we live, who we see or visit, what medical treatment we want, and what services we will have.

Generally, if a person loses ability to make decisions, decisions are still made by family or carers. Usually these arrangements work well, but you may want to ensure that a person you choose will be the one who makes decisions for you. You may also want to ensure that your wishes are known and followed. It is wise to choose someone you trust now.

Even if you have granted someone Power of Attorney, they cannot make your medical decisions.

The appointment of your enduring guardian takes effect **only if you become unable** to make your own medical or personal decisions. Your Enduring Guardian can then communicate your wishes on your behalf after you have lost the ability to communicate.

What decisions would they make?

Your enduring guardian would make your medical and lifestyle decisions.

These could include what medical treatment you have, whether you live in your own home or a nursing facility, and what personal services you receive, such as home support or meals on wheels.

Your enduring guardian is legally bound to:

- Follow your specific directions.
- Act in your best interests.
- Ensure that decisions about your life promote your dignity and freedom (**as much as possible**).

Can I make some decisions in advance?

Yes. If you want to, you can write your own decisions about your medical care or lifestyle on the form when you appoint your enduring guardian. These are called **conditions**.

You can write your conditions in your own words. As long as your conditions are clear, lawful, and practically possible to carry out, they are binding on your enduring guardian and must be respected.

Here are some examples of conditions:

- I direct my guardian to consult my friend (name) on any important decisions about my health and welfare.
- If I require long-term care in a facility outside my home, I would prefer to live close to my brother, (name).
- When my guardian assumes their role, I direct them to notify my relative (name, address) of the nature of my illness.
- Because of my religious beliefs I do not wish to receive a blood transfusion or blood products under any circumstances.
- If two doctors conclude that I have a terminal illness or a condition that is totally incapacitating physically and mentally, I direct that no life saving or life prolonging medical intervention be given me. Instead, I would prefer the best standards of palliative care and treatment to control distressing symptoms, even if that treatment may shorten my life.
- I direct my guardian to arrange for a priest of (my religion) to attend to me on a regular basis.
- I am a registered organ donor and would like to donate my eyes, liver and any other organs that can be used.
- When my guardian assumes their role, I direct them to advise my lawyer of my condition so that they may arrange for my Power of Attorney directive to take effect.

You do not have to write any conditions if you do not want to.

Who can I appoint as my enduring guardian?

You can appoint anyone over the age of 18. Most people choose a relative or close friend who they trust.

You have **three options** for choosing people. You can:

1. **Appoint one person.** For example, your spouse.
2. **Appoint a first guardian, and name an alternative guardian in case your first guardian could not assume the role.** For example, you could appoint your husband, and if he was not able to act as your guardian for any reason, you could name your son as your alternative guardian.
3. **Appoint two joint guardians.** Joint guardians should agree on any decision they make. It is important if you select joint guardians that they are willing to work cooperatively. Joint guardians can however work jointly or severally. Disputes between joint guardians will be resolved by the Guardianship and Administration Board.

Can I change my mind?

Yes. You can revoke your appointment of an enduring guardian at any time, and appoint someone else if you wish, as long as you have the capacity to understand what you are doing. You can add conditions or change your mind about what conditions you make, but you must fill out and register a new document to do this.

What factors should I consider?

Before you appoint an enduring guardian, consider these factors.

Who would I trust most to make my medical decisions? Consider who knows you and your preferences best. Think about whether you want to appoint one person, one person and an alternate person, or two people who must agree on your decisions. It would be best to select a person who you know to be a good decision maker.

Does this person or persons feel comfortable being my guardian? Talk to the person or persons you would like to appoint before you fill out the form. Show them this infosheet so that they understand what they would need to do. Discuss with them your conditions and how you want them to be interpreted.

Who else is available to be an enduring guardian? If you do not feel comfortable appointing a family member or friend, you can choose to appoint the Public Guardian. You can discuss this with the Public Guardian on 6233 7608.

Is there anyone I would want my guardian to consult? Your guardian will have the final say, but you may want to direct them to consult specific members of your family or friends and take their views into account.

Are there any decisions I want to make in advance? Think about the types of care and medical treatment you **would** want, and the types you **would not** want. If there is medical treatment you would not want, you may decide to explain this to your family now.

Who else should I tell? Once your chosen person or persons has agreed to be your enduring guardian, you may wish to tell other members of your family or your close friends, and perhaps your GP or solicitor, so that they know who you want to make your decisions.

Once you have considered these factors, you are ready to fill out the Enduring Guardianship form enclosed with this info sheet.

How do I make this legally binding? You must register this document with the Guardianship and Administration Board, in order for it to be valid. You may post it to the Board at GPO Box 1307, Hobart 7001. There is no fee payable for registration. Once you register your appointment, it is public. The Guardianship and Administration Board will enter your appointment in its records and return copies of your document to you. You will also get a wallet card to carry with you.

Why does the Board send me more than one copy my registered instrument? It is a good idea to give a copy of the instrument to your guardian, to your family doctor and to anyone else you may wish to know about the instrument. If you have regular contact with a hospital you should also give the hospital a copy.

What if I am away from Tasmania when my Enduring Guardian needs to act? Your Enduring Guardian operates only in Tasmania. If your Enduring Guardian needs to operate interstate they should contact the Guardianship and Administration Board.

What if my Enduring Guardian does not carry out my directions? If the Guardianship Board learns that this has happened, they may revoke the appointment if it believes that your Enduring Guardian has not acted in your best interests or contrary to your wishes. Your Enduring Guardian may also be guilty of an offence if they contravene a direction you have given them.

Want more information?

If you would like more information or advice, phone the Office of the Public Guardian on 6233 7608.

If you would like more copies of this kit or form, visit any Service Tasmania shop or phone the Guardianship and Administration Board on 6233 3085 or download a copy from www.guardianship.tas.gov.au/publications