

When A Represented Adult Dies

The Public Trustee continues to protect assets under its control until the Court appoints a personal representative (executor or administrator) of the estate. The Public Trustee does not make funeral arrangements, but will advance funds from the estate to cover reasonable funeral expenses. To finalize the estate, it will be necessary for someone to be appointed personal representative of the estate. The Public Trustee will turn over control of the estate to the personal representative after being provided with a release, or after accounts are reviewed and approved by the Court.

Options For Assistance

Court-ordered trusteeship is just one option to help represented adults deal with their finances. Other options include informal trusteeship and enduring powers of attorney. Each has its advantages and disadvantages. Brochures dealing with these and other topics are available from the Office of the Public Guardian and Trustee or at: www.humanservices.alberta.ca/opgt

Assisting Represented Adults With Finances

Office Of The Public Guardian and Trustee

Edmonton

4th Floor, Brownlee Building
10365-97 Street
Edmonton, AB T5J 3Z8
Phone: 780-427-2744
Fax: 780-422-9136

Calgary

Suite 900
444 - 7th Avenue SW
Calgary, AB T2P 0X8
Phone: 403-297-6541
Fax: 403-297-2823

Office Of The Public Guardian and Trustee

For More Information:

Visit: www.humanservices.alberta.ca/opgt
Or, call toll-free: 310-0000, then dial
780-427-2744 for the Edmonton office, or
403-297-6541 for the Calgary office

The Public Trustee is appointed by the Alberta Government under the *Public Trustee Act* to protect and manage the financial interests of vulnerable Albertans. Trust administrators, lawyers, taxation officers, auditors and support staff in the Office of the Public Trustee act on behalf of people with mental disabilities, administer the estates of deceased persons and protect the property interests of minors.

Assisting Mentally Disabled Adults With Finances

When a person with a mental disability has an estate to manage, it may be necessary for a trustee to be appointed under the *Adult Guardianship and Trusteeship Act*. The trustee can be an individual 18 years of age or older, a trust company, or the Public Trustee. The Court may appoint a trustee for an adult if it is satisfied that (a) the adult does not have the capacity to make decisions respecting any or all financial matters, (b) less intrusive and less restrictive alternative measures would not adequately protect the adult's interests in respect of financial matters, and (c) it is in the adult's best interests for a trustee to be appointed. The Public Trustee will not be appointed unless the Court is satisfied there are assets in need of protection and ongoing management, and there is no other suitable person willing and able to act as trustee.

Other Ways The Public Trustee Is Appointed

When the Public Trustee is notified (a) of the death of a trustee, (b) of the appointment of a guardian or trustee for a trustee, or (c) of the coming into effect, because of the incapacity of a trustee, of an enduring power of attorney or personal directive made by the trustee, then if there is no other trustee who has the authority to act with respect to the property subject to the trusteeship,

the Public Trustee may take possession and control of the property.

How The Public Trustee Manages An Estate

Once appointed, the Public Trustee takes control of a represented adult's property, which may include land, vehicles, investments and personal property. Arrangements are made to collect the represented adult's income and to pay their expenses.

Any payments made by the Public Trustee must come out of the represented adult's assets or income. The Public Trustee does not have funds to provide as a benefit to clients. If the adult's income exceeds their expenses, the Public Trustee puts the remaining amount in a trust account which pays interest. By assuming control of a represented adult's property, the Public Trustee does not seize or confiscate the assets or income. The Public Trustee merely manages the property for the benefit of the represented adult.

Fees Charged For Managing A Represented Adult's Estate

Fees are charged by the Public Trustee to cover the cost of managing the represented adult's estate. These fees may be reviewed by the Court and could include such things as legal fees, court costs, postage, photocopies and travel expenses. The Public Trustee may also hire agents such as property managers, lawyers, appraisers, realtors, accountants and auctioneers to assist in administering the estate. These agents are paid from the represented adult's estate.

A Represented Adult May Prepare A Will

A person may have the legal capacity to make a valid Will even though a trustee or a guardian has been appointed.

A Trusteeship Order Does Not Cancel A Valid Will

The appointment of a trustee or guardian does not cancel or change a Will, or affect beneficiary designations under a life insurance policy, pension or retirement savings plan. If the Public Trustee knows a represented adult client has made a Will, the Public Trustee strives to administer their property in a manner that respects the wishes expressed in the Will.

When The Public Trustee's Authority Ends

The Public Trustee will manage a represented adult's estate until discharged or replaced, or until the represented adult dies.

Discharging the Public Trustee

If the Public Trustee acts under a Court Order, any interested party, including the represented adult or the Public Trustee, may apply to the Court to have the trusteeship terminated and the Public Trustee discharged. If the Public Trustee is discharged as trustee, control of the estate is returned to the former represented adult or to a Court-appointed private trustee, once an accounting has been reviewed and approved.