

# Adult Guardianship

## Adult Guardianship and Trusteeship Act (AGTA)

The AGTA is legislation which offers a variety of options to support adult Albertans who need assistance making personal or financial decisions.

One of the personal decision-making options under the AGTA is guardianship.

### Guiding Principles

The AGTA is built on four guiding principles:

- The adult is presumed to have capacity and able to make decisions until the contrary is determined.
- The ability to communicate verbally is not a determination of capacity; the adult is entitled to communicate by any means that enables them to be understood.
- Focus on the autonomy of the adult with a less intrusive and least restrictive approach that is likely to be effective.
- Decision-making that focuses on the best interests of the adult, based on the known wishes, values and beliefs of the adult while they had capacity.

### What is adult guardianship?

Adult guardianship is granted by a court order which gives the guardian the legal authority and responsibility to make personal, non-financial decisions on behalf of another adult who has lost capacity.

“Represented adult” is the term used to describe someone who is the subject of a guardianship order and is sometimes simply referred to as “the adult”

### Types of decisions

The areas of decision-making authority are outlined in the guardianship order and can include any or all of the following:

- Health care
- Where to live
- Who to associate with
- Participation in social activities
- Participation in educational, vocational or other training
- Employment
- Legal proceedings

Guardians can't make decisions about:

- Finances
- Organ donation
- Sterilization

A guardian is only able to make decisions in the areas granted and shall comply with any conditions, limits or requirements in the court order.

### Eligibility to be guardian

A proposed guardian or alternate guardian must meet the following criteria for the court to consider appointing the person:

- Be 18 years of age or over
- Sign a consent to act as a guardian or alternate guardian
- Does not have personal interests which may conflict with the adult's interests
- Will consider the views and wishes of the adult
- Has a relationship with the adult
- Is suitable and able to act as a guardian.

There is no requirement under the AGTA for the guardian to live in Alberta or Canada. However, the guardian must have the ability to effectively exercise authority about personal matters referred to in the order.

Proposed guardians and proposed alternate guardians are required to complete a criminal record check and personal reference check using only the process that is initiated by Office of the Public Guardian and Trustee (OPGT).

### Appointment of Public Guardian

The Public Guardian may be appointed as guardian for an adult if the adult is in need of a guardian and no person is willing, able and suitable to make an application for the appointment of guardian.

### Application process

The decision to grant a guardianship order is made by the court.

An application can be submitted for an individual up to 12 months before his or her 18th birthday and the

order would come into effect after the individual has turned 18.

A guardianship application package must be submitted, and include the following:

- A [capacity assessment](#) report respecting the adult who is the subject of the application. The adult's capacity to make decisions is assessed by a physician, psychologist or other health care professional designated as a capacity assessor.
- A guardianship plan.
- Other regulated forms as required by the AGTA Regulations.

The guardianship application package is available on the OPGT website: [www.alberta.ca/adult-guardianship.aspx](http://www.alberta.ca/adult-guardianship.aspx)

A review officer from OPGT will communicate with the adult to obtain the adult's views on the application, unless there is a reason that informing the adult is likely to cause harm to the adult.

The AGTA Regulations identify who needs to be notified of the application.

### Urgent Order

If an interested person has reason to believe that an adult lacks the capacity to make a decision about a personal matter, and there is immediate danger of serious physical or mental harm to the adult, they may apply to the court for an urgent guardianship order.

An urgent order expires after 90 days, unless a further application is made to and granted by the court.

Additional information about urgent orders can be found at [www.alberta.ca/adult-guardianship.aspx](http://www.alberta.ca/adult-guardianship.aspx). A lawyer can answer specific questions about urgent orders.

### Responsibilities of a guardian

A guardian makes decisions for the adult:

- In the adult's best interest
- Diligently and in good faith
- Encouraging the adult to be as independent as possible
- In the least intrusive and least restrictive manner that is likely to be effective

The guardian must also:

- Inform the adult of important decisions that are made.
- Keep a record of the decisions that are made.

### Concerns about a guardian

The adult, or any other interested person, could make a [complaint](#) under the AGTA by submitting a written complaint to the OPGT office.

The complaint will be investigated if it meets the criteria.

### Review of a guardianship order

Guardianship may reviewed for many reasons, including, but not limited to:

- It is required by the court
- There is a change in the capacity of the adult
- There is a change in the adult's circumstances that affects the guardian's ability to make decisions
- There is a change in the capacity of a guardian that affects the guardian's ability to make decisions
- An interested party has concerns about the current guardian's decisions
- The decision regarding the review of guardianship order is made by the court

### Where can I get more information?

#### Information about the OPGT

[www.alberta.ca/opgt-supports.aspx](http://www.alberta.ca/opgt-supports.aspx)

#### Adult Guardianship

[Adultguardianship | Alberta.ca](http://Adultguardianship|Alberta.ca)

#### Offices:

Monday to Friday, 8:15 a.m. to 4:30 p.m.

Grande Prairie 780-833-4319

St. Paul 780-645-6278

Edmonton 780-427-2744

Red Deer 403-340-5165

Calgary 403-297-3364

Lethbridge 403-381-5648

Medicine Hat 403-529-3744