

# The Public Guardian and Trustee and Adult Guardianship

## Adult Guardianship Self-Help Guide



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Public Guardian and Trustee of Yukon

## Information Resources – Whitehorse, Yukon

### **Seniors' Services/Adult Protection**

867-456-3946; toll free (in Yukon) 1-800-661-0408, local 3946

Email: [hss@gov.yk.ca](mailto:hss@gov.yk.ca)

Web site: [www.hss.gov.yk.ca/seniorservices.php](http://www.hss.gov.yk.ca/seniorservices.php)

Location: 100–204 Black Street

### **Office of the Public Guardian and Trustee**

867-667-5366; toll free (in Yukon) 1-800-661-0408, local 5366

Email: [publicguardianandtrustee@gov.yk.ca](mailto:publicguardianandtrustee@gov.yk.ca)

Web site: [www.publicguardianandtrustee.gov.yk.ca](http://www.publicguardianandtrustee.gov.yk.ca)

Location: Third Floor Andrew A. Philipsen Law Centre, 2134–2nd Avenue

### **Yukon Public Law Library**

867-667-3086; toll free (in Yukon) 1-800-661-0408, local 3086

Email: [yukon.law.library@gov.yk.ca](mailto:yukon.law.library@gov.yk.ca)

Web site: [www.justice.gov.yk.ca/prog/cs/library.html](http://www.justice.gov.yk.ca/prog/cs/library.html)

Location: Ground Floor Law Courts, 2134–2nd Avenue

### **Registry of the Supreme Court of Yukon**

867-667-5937; toll free (in Yukon) 1-800-661-0408, local 5937

Email: [courtservices@gov.yk.ca](mailto:courtservices@gov.yk.ca)

Web site: [www.yukoncourts.ca/courts/supreme.html](http://www.yukoncourts.ca/courts/supreme.html)

Location: Ground Floor Law Courts, 2134–2nd Avenue

## Non - Government

### **Yukon Public Legal Education Association (YPLEA)**

867-668-5297; toll free (in Yukon) 1-866-667-4305

Email: [ypleyt@gmail.com](mailto:ypleyt@gmail.com)

Web site: [www.yplea.com](http://www.yplea.com)

### **Law Society of Yukon (Lawyer Referral Service)**

867-668-4231; toll free (in Yukon) 1-800-661-0408, local 5937

Email: [info@lawsocietyyukon.com](mailto:info@lawsocietyyukon.com)

Web site: [www.lawsocietyyukon.com](http://www.lawsocietyyukon.com)

Lawyer Referral Service – half-hour consultation with a lawyer – \$30 incl. GST

### **Lawyers**

To contact a lawyer's office, look in the phone directory under "Lawyers" in the Yellow Pages or under names of local law firms

## IMPORTANT!

This guide has been produced by the Office of the Public Guardian and Trustee in the Yukon Department of Justice. It is intended to be used as a guide only and is not considered a comprehensive legal resource.

The information provided does not replace a lawyer's advice and cannot teach you everything you need to know. Even if you decide to proceed without a lawyer, you should consult a lawyer for interpretation of the law that applies to your case and for other legal advice.

The information provided in this guide is believed to be correct as of its date of publication. Please refer to the **List of Key Words Used in Adult Guardianship** for definitions of any unfamiliar terms used in this guide.

## THE PUBLIC GUARDIAN AND TRUSTEE AND ADULT GUARDIANSHIP

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### Who is the Public Guardian and Trustee?

The Public Guardian and Trustee (the "PGT") is a Yukon Government employee appointed by the Commissioner in Executive Council (Cabinet).

The PGT's authority to act as the guardian of an incapable adult (the "adult") is set out in the *Decision Making, Support and Protection to Adults Act, Schedule A, Adult Protection and Decision Making Act* and *Schedule C, Public Guardian and Trustee Act*.

### In what situations would the Public Guardian and Trustee act as guardian?

The PGT may act as guardian of last resort when the adult has no family or friends to apply for guardianship. The intent of guardianship legislation is to support and empower trusted friends and family members in their attempts to take care of one another, as opposed to having government intervene in family matters. All adults should receive the most effective, but least restrictive and intrusive, form of support, assistance, or protection when they are unable to care for themselves or manage their affairs. Governments are aware that their intervention, especially in personal matters, should occur only as a last resort.

### How does the Public Guardian and Trustee manage property?

Once appointed as guardian, the PGT may take control of an adult's property, which may include real estate, vehicles, investments and personal property. The PGT arranges to file income tax returns, apply for benefit entitlements, insure property such as homes or vehicles, and sell or store unused property. The PGT also receives payments that are due to the adult from any source, including pensions, disability benefits, dividends, interest payments and rent. Arrangements are made to pay expenses including rent, mortgage payments, maintenance payments, taxes, insurance premiums, loan payments and other lawful claims, to the extent of an adult's assets.

The PGT administers assets and sources of income to which the adult is entitled. Any payments made by the PGT to or on behalf of the adult must come out of the adult's assets or sources of income. The PGT **does not have funds** to provide as a benefit to clients.

If a client's income exceeds expenses, the surplus is accumulated by the PGT in the client's trust account, which generates interest for the client.

By assuming control of an adult's property, the PGT does not seize or confiscate the assets or sources of income. The PGT manages the property for the benefit of the adult, taking into account the requirements of the adult, the needs of any dependants and the nature of claims on the adult's estate.

### **Does the Public Guardian and Trustee charge a fee for managing an adult's estate?**

Yes. This fee is set out in the *Public Guardian and Trustee Regulation* (OIC 2005/83).

The PGT may also be reimbursed for expenses incurred while managing the property. Such expenses may include legal fees, court fees, and postage, photocopying and travel expenses.

The PGT may also hire professionals and agents to assist with the administration of the property. Examples include property managers to collect rents, lawyers to conduct estate litigation, appraisers to determine market values of properties, realtors to sell real property, accountants to provide accounting expertise and auctioneers to dispose of property. Payment for these services can be made from the adult's trust account.

### **When does the Public Guardian and Trustee's authority end?**

The PGT will manage the adult's property until the PGT is discharged, removed or replaced by a different guardian or the adult dies.

The process for removing or replacing the PGT is found in the *Decision Making, Support and Protection to Adults Act, Schedule A, Adult Protection and Decision Making Act, Part 3* (Division 4 - Removal, Replacement and Review).

### **How can the PGT be terminated or replaced as guardian?**

If the PGT acts under a Guardianship Order (the "order"), any interested party may apply to the court to have the guardianship terminated.

The adult or the PGT may apply to the court to seek a discharge of guardianship responsibilities. Once the PGT receives a discharge from the court, control of the property is returned to the adult.

The PGT may also be replaced as guardian. If the PGT is replaced by another guardian, the PGT hands over control of the property to the new guardian.

## What happens when the adult dies?

As the guardian, the PGT will administer the estate when there is no will, or when the executor named in the will declines to take on these duties. The PGT continues to protect assets already under its control until the court appoints a personal representative of the estate who obtains Letters of Administration or a Grant of Probate.

If the named executor agrees to administer the estate, the PGT will turn over control of the estate to the executor after being provided with the Grant of Probate.

Funeral arrangements can be made by executors, family or friends or the PGT. If there is enough money to cover funeral expenses, the PGT will pay a reasonable sum from the adult's funds to a funeral home for such costs.

## Where can I get further information?

You may contact a lawyer, the Yukon Public Legal Education Association or the Office of the Public Guardian and Trustee about adult estate matters. The PGT cannot give legal advice. Your best source of information about a trust that is not held by the PGT is your lawyer.

Legislation about guardianship and the PGT can be found on the Yukon Government web site:

- *Decision Making, Support and Protection to Adults Act* - <http://www.gov.yk.ca/legislation/acts/dmspa.pdf>
- *Schedule A, Adult Protection and Decision Making Act* - <http://www.gov.yk.ca/legislationacts/Aadpr.pdf>
- *Schedule C, Public Guardian and Trustee Act* - <http://www.gov.yk.ca/legislation/acts/Cpugutr.pdf>
- *Public Guardian and Trustee Regulation, OIC 2005/83* - [http://www.gov.yk.ca/legislation/regs/oic2005\\_083.pdf](http://www.gov.yk.ca/legislation/regs/oic2005_083.pdf).

The Public Guardian and Trustee web site at [www.publicguardianandtrustee.gov.yk.ca](http://www.publicguardianandtrustee.gov.yk.ca) contains information and documents on adult guardianship.

## NOTES

## NOTES

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For more information, or to obtain copies of these publications, please contact:

Government of Yukon, Department of Justice

Public Guardian and Trustee

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Box 2703, Whitehorse, Yukon Y1A 2C6

[www.justice.gov.yk.ca](http://www.justice.gov.yk.ca)