

Protecting Elderly and At-Risk Western Australians



Public Trustee

Information for Represented Persons and their families regarding the Public Trustee's role as Administrator.



The Public Trustee provides quality Will-drafting, and trustee and asset management services to Western Australians.

We can assist you or your loved ones with:

- Wills
- Enduring Powers of Attorney
- Deceased Estate Administration
- Trustee Services
- Financial Administration
- Charitable Giving - Give2Good Foundation

What is a represented person?

A Represented Person is an adult, who the State Administrative Tribunal (SAT) has declared to be unable to manage their own finances (eg due to dementia, mental illness, or cognitive impairment) and, as such, requires an administrator to make these decisions for them.

The SAT makes this decision by reviewing all relevant medical and other evidence, and hearing from witnesses, including the Represented Person. This decision is subject to appeal or review.

What is an administrator?

An administrator is the person appointed by the SAT, under an Administration Order, to make financial decisions on behalf of the Represented Person.

The SAT might also appoint a guardian, who is responsible for making lifestyle decisions for the Represented Person (eg regarding medical treatment or accommodation).

An administrator will often liaise with a legally appointed guardian when considering requests for expenditure.

For more information regarding guardianship please contact the Office of the Public Advocate.

Who can be appointed as an administrator?

The SAT will choose an administrator who is willing to act if for the Represented Person. The administrator must be over 18 and must agree to be administrator.

Administrators are often a family member or close friend. If there are no family, friends, or corporate trustee suitable or willing to be administrator, the SAT will appoint the Public Trustee as administrator.

What is the Public Trustee's role?

The Public Trustee can be involved in the estate of a Represented Person in the following ways:

1. By being appointed by the SAT as one of two types of administrator for the Represented Person:

- a) **Plenary administrator** - responsible for making all financial decisions, or
- b) **Limited administrator** - responsible for making decisions only in relation to a specific issue, eg the sale of a house.

2. By examining the financial accounts of the Represented Person, which have been prepared by their private administrator.

For more information regarding the Public Trustee's role in examining the accounts prepared by a private administrator, please see our *Supporting Private Administrators* brochure.



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What is the process once the SAT appoints the Public Trustee?

A hearing is conducted and the SAT appoints the Public Trustee as Administrator.



The SAT sends an Administration Order to the Public Trustee advising of the new appointment.



The Public Trustee assigns a Trust Manager for the Represented Person.



The Trust Manager contacts the represented person to discuss the Order and the service they will provide.

Following the hearing, the Represented Person can expect to be contacted by a Public Trustee Trust Manager within two-four weeks.

What services do we provide as administrator?

As administrator for a Represented Person, the Public Trustee might perform the following tasks on their behalf:

- collect and bank income;
- pay an allowance to the Represented Person;
- pay bills and accounts;
- recover debts;
- manage assets and liabilities;
- manage, purchase, sell and maintain real estate;
- prepare and lodge tax returns;
- carry on a business;
- budget, plan and invest for future needs; and
- undertake legal action, if and when appropriate.

The Public Trustee will always make decisions that are in the best interest of the Represented Person when acting as their administrator.

The administrator is ultimately responsible for all funds spent on behalf of the Represented Person and may have to prove to the SAT that payments are in their best interest.

The Public Trustee is required to obtain written evidence, eg receipts or loan documents, to justify most financial transactions when it acts as an administrator.



The Public Trustee provides a similar role as Trustee when a court, tribunal or assessor awards damages to a person who is injured, and that person is unable to manage the money themselves.

For more information regarding the Public Trustee's role in these circumstances, please see the *Protecting your Trust* brochure.

What about family members?

The Public Trustee may consult with family members when making decisions about expenditure, investments and other matters relating to the Represented Person's interests and may also be directed to do so by the SAT. However, confidentiality provisions do apply and general discussion with third parties is not always appropriate or possible.

What about gifts?

An administrator is not allowed to make any payments that are not required by law. For example, an administrator is not allowed to transfer funds for charitable reasons or as a favour, unless they have specific authorisation from the SAT.



Who does the Public Trustee report to as an administrator?

The Public Trustee must comply with the *Guardianship and Administration Act 1990* and is accountable to the SAT.

The Public Trustee has a direct reporting relationship to Government, through the Department of Justice and may be required to explain matters to the Attorney General.

The Public Trustee is also subject to the scrutiny of the Ombudsman, who has the power to investigate certain matters and report adverse findings to the Parliament of Western Australia, as well as the Auditor General.

What type of fees apply?

When appointed as a plenary or limited administrator, three standard annual fees may apply.

Plenary Administrator	Limited Administrator
1. Personal Financial Administration Fee This fee is based on the amount of contact with the Public Trustee, where the Represented Person lives, where the main source of income is paid and who manages the day-to-day finances.	1. Transaction Fee This fee is based on the number of transactions we perform.
2. Asset Management Fee This fee is based on the value of certain assets, such as cash, bank accounts or share portfolios (but not including the Represented Person's residence, motor vehicle, household furniture and effects ,or personal jewellery).	
3. A Residence and Real Property Fee This fee applies to each property, retirement village unit, relocatable home, mobile home or caravan (permanently located in a caravan park). This does not include the Represented Person's principal place of residence or that of his/her spouse, de facto partner or minor child. The Public Trustee will continue to consider a home as the Represented Person's principal place of residence for 12 months after they leave it, as long as it is not rented to a third party.	

Other fees may apply and all fees can be explained by the Trust Manager.



Investments

Depending on the Represented Person's needs, the Public Trustee may choose to invest their money in one of the Public Trustee Investment Funds, or superannuation, as well as place some in the Common Account, which is used as the operational account for day-to-day needs.

Management fees are applicable, but these are deducted from the funds before interest payments are credited back to the Represented Person's account. Individual fees are not charged. Money held in the Common Account earns interest calculated daily and is credited to the trust on a twice-yearly basis.

For more information regarding investments please contact Trust Management.

Operational Subsidy

The Public Trustee provides a community service to Represented Persons by ensuring that those people who are genuinely unable to pay, can still access our services.

To find out more about our operational subsidy and whether it applies to your situation, please contact Trust Management on 1300 746 116.



Public Trustee

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