Office of the PublicAdvocate

Information Sheet

Protecting the human rights of adults with decision-making disabilities

3. The role of the State Administrative Tribunal

What is the State Administrative Tribunal?

The State Administrative Tribunal is an independent, statutory tribunal which:

- considers applications for the appointment of a guardian and/or administrator to an adult with a decision-making disability
- makes orders for the appointment of guardians and administrators
- reviews orders which have been made previously
- considers applications for intervention into enduring powers of attorney, enduring powers of guardianship, advance health directives and treatment decisions under the *Guardianship and Administration Act 1990*.

Hearings of the State Administrative Tribunal

If an application for the appointment of a guardian and/or administrator has been made, the Tribunal will conduct a hearing at which those people who have an interest in the life of the person with the decision-making disability, will have the opportunity to put forward their views about what they believe is in the person's best interests. Wherever possible, the person whose decision-making rights are being considered will also have an opportunity to state his or her views and preferences.

What will the Tribunal consider?

The Tribunal also considers other information and reports which have been submitted about the circumstances and needs of the person concerned, before making a determination about:

- whether the person has a decision-making disability
- the impact of the disability on the person's ability to manage their own life and the extent to which they are capable of managing their own affairs (whether there is a need for a guardian or administrator)
- whether appointment of a guardian and/or administrator is in the best interests of the person with a decision-making disability
- whether a guardian or administrator should make decisions relating to specific areas (a limited order) or in all matters (plenary order)
- who is the most suitable person or agency to take on the role of guardian or administrator
- how long the order should remain in force before it is reviewed
- whether the person is capable of voting at parliamentary elections
- whether there is a less restrictive alternative such as an enduring power of attorney, enduring power of guardianship or advance health directive, already in place.

Reviews of Orders

There is an automatic review process built into the appointment of guardians and administrators to determine whether there is still a need for a guardian or administrator and whether any change is required to the terms of the original order. The State Administrative Tribunal is legally required to review each case within five years, but depending on the circumstances of the case, a review may be conducted sooner.

The Tribunal may also review an order at any time on the application of the person concerned, their guardian or administrator, the Public Advocate or any person to whom the Tribunal grants leave to apply for review.

Appeals

The *Guardianship and Administration Act 1990* allows for decisions made by the Tribunal to be reviewed. If the determination has been made by a single Tribunal Member, a person who is aggrieved may ask the President to arrange for a Full Tribunal to review the determination. The President must comply with such a request.

An application for leave to appeal against a determination by a Full Tribunal can be made to the Supreme Court but only in the following circumstances:

- the State Administrative Tribunal made an error of law and/or fact
- the State Administrative Tribunal acted outside its jurisdiction
- there is some other reason sufficient to justify an appeal.

For further information contact

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