

Information Sheet

Protecting the human rights of adults with decision-making disabilities

6. Sterilisation

The management of sexuality and fertility can pose particular problems for some people with a decision-making disability and for their carers. With the onset of puberty, a new set of issues arise in relation to safeguarding the person's wellbeing.

These issues include:

- how to deal with menstruation
- how to protect the person from the possibility and consequences of unwanted pregnancy
- how to manage inappropriate sexual behaviour
- how to protect the person from sexual abuse or exploitation.

The Guardianship and Administration Act 1990

In Western Australia, the sterilisation of adults with a decision-making disability is specifically provided for in sections 56 to 63 of the *Guardianship and Administration Act 1990* (the Act).

Sterilisation of an adult with a decision-making disability cannot take place without the joint consent in writing of the guardian or enduring guardian and the State Administrative Tribunal which conducts hearings into applications under the Act and until all rights of appeal in respect of the Tribunal's decision to consent to the sterilisation procedure have lapsed or been exhausted.

A represented person, his or her guardian, enduring guardian or the Public Advocate, may apply to the State Administrative Tribunal for its consent to the carrying out of a sterilisation procedure. The Tribunal may, by order, consent to the sterilisation if it is satisfied that it is in the best interests of the represented person. The consent of the Tribunal may be given subject to compliance with any condition imposed by the Tribunal.



A person who knows that an application has been made for a guardianship order must not carry out or take part in a sterilisation procedure before the application has been dealt with by the State Administrative Tribunal and all rights of appeal in respect of the Tribunal's determination have lapsed or been exhausted.

Persons who carry out or take part in a sterilisation procedure contrary to the provisions of the Act commit an offence for which the penalty is \$4,000 and imprisonment for two years.

In relation to medical research, section 110ZT of the Act prohibits a research decision-maker from consenting to a procedure for the sterilisation of the research candidate (patient).

Persons who carry out or take part in a sterilisation procedure contrary to the provisions in this section of the Act commit an offence for which the penalty is \$10,000 or imprisonment for two years.

For further information contact

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