



When a Guardianship &/or
Administration application has been
made....
...some information for Support Coordinators



About DDWA

Developmental Disability WA (DDWA) was established in 1985 and is a trusted source of independent information, advocacy, education and support for people with intellectual and other developmental disability, their families and the people who support them.

Our Vision

People with developmental disabilities and their families live their lives their way.

DDWA works in three main ways:



Individual and Systemic advocacy



Information is power



Peer support and shared experiences and wisdom





An earlier webinar discussed...

Formal Guardianship does not need to be applied for as soon as a young person turns 18.

1990 Guardianship Act requires:

- Assume capacity unless there is evidence of lack of capacity, &
- The *least restrictive option* to be applied, so that people can retain as much Choice and Control as possible

Having support in hearings is a Right, so involving independent parties like an advocate can help a person be heard



This webinar will address...

Some critical language

It doesn't matter who made an application, if it is in, it will go ahead

Offer the family or the person independent advocacy

Identify any conflicts you may have

Three things the Tribunal must attend to



Some critical language

State Administrative Tribunal or *SAT*

Member – is the person in SAT acting like a judge or magistrate

Guardianship only covers lifestyle decisions

The Office of the Public Advocate can be appointed *Guardian*

Administration only covers finances

The Public Trustee can be appointed as *Administrator*

Application is the formal document asking for a hearing

Guardianship and Administration Act 1990 (GAA) is the law

‘The Papers’ is all of the material the Member will read first

‘Notice of Representation’ is the form for advocates and lawyers

Service Provider Report + Medical report



Once an application is in...

There may be varied opinions about whether Guardianship is an inherent good or possibly unnecessary, but once there is an application in, these questions are for the Tribunal to determine

You can be most helpful by not being drawn to take a side and by staying focussed on the person concerned

The Tribunal needs good evidence, to be able to make the best decision, so that means reports, letters of support, or witnesses on the day

The people most involved need to be as relaxed as possible - *hopeful and supported* (so their supporters need to be as relaxed as possible too)



Independent Advocacy

Involving an advocate enables an SC to rest within their role

An advocate can assist with content information as well as process advice

A network of supporters (including an advocate + SC) can help to scaffold a person or family within the process

An advocate can stand beside a person and support them to speak for themselves (a lawyer *speaks for* the person)

cont.



Independent Advocacy cont.

PWD* and DDWA have jointly developed an Easy Read presentation on the State Administrative Tribunal (SAT) and Guardianship and Administration

DDWA can make custom presentations for people with communication challenges or other barriers to participation

DDWA can develop a Communication Profile of a person, that is then given to the SAT Member, to assist them to communicate with someone appearing before them

*People With Disabilities WA



Independent Advocacy cont.

Communication Profile example section

What you need to know	What you can do...	Don't do this...
I need time to think about what you say.	Give me lots of time to think.	Don't just keep talk, talk, talking.
My disability makes me think more slowly so I need time to think before I reply.	Give me time to take a turn to speak.	Don't butt in, don't interrupt me when I start trying to answer.
Loud, fast voices stress me.	Keep your voice calm and steady.	Don't talk at the same time as others.
I'm very quiet usually.	It helps if people make me feel relaxed, reassure me, make me laugh.	
I struggle with long or complicated words and sentences.	Use simple language, simple words and short sentences.	Don't use complex words or sentences.
Pictures or photos help me understand better, visual supports help me.	Use pictures, photos or visual aids to help me better understand what you are saying.	
I get stressed and anxious when trying to answer questions.	Use simple, direct questions. Give me time to answer.	Don't interrupt me when I'm thinking about or answering your questions.



A confident family member

A mother called regarding a Guardianship hearing the following week, relating to her son. In explaining why she felt Guardianship was needed, it was clear that she was planning to tell the Tribunal a range of information that would not be helpful to them in their decision-making. She was also extremely nervous and worried.

After some discussion with an advocate, the mother was advised about

- The critical information the Tribunal would be listening for
- The right to view the papers before the hearing
- The availability of an advocate to attend with her

The mother attended alone and felt better equipped. She read the papers beforehand and felt more relaxed and prepared. The outcome was the one that she was seeking



Identify any conflicts you may have as SC

Some SC's face difficulties with engagement of family decision-makers and the prospect of a Guardian from the Office of the Public Advocate may seem like an easier option

Don't express a view about the merits or otherwise of Orders, unless you are confident in your position. Your opinion may evoke conflict or cause distress

Explore your thinking or concerns with a peer or a supervisor or independent advocate before stepping into active involvement

If you have extensive experience of this jurisdiction, it is still a good idea to check your thinking with someone independent



A tricky example for an SC...

A community member made a report to the Office of the Public Advocate about a young man with Autism living at home with his parents. The report related to the person 'being locked outside in his back garden' (a restrictive practice) so OPA made an application to SAT for a hearing. The SC was asked to provide a Service Provider Report and did so.

When the mother became aware that an application had been submitted, she was very distressed and angry at the SC's involvement.

The SC became aware that there was a likelihood that the Guardianship would go to someone other than the mother

The SC wrote a separate submission to the SAT expressing her view that there would be no better Guardian for this young person than their mother

Despite efforts to maintain rapport with the mother, the service agreement was ended



Essential issues for the SAT to address

Capacity

- Incapable of looking after own health and safety
- Unable to make reasonable judgements, or
- In need of oversight, care and control

Whether a Guardian (or Administrator is needed) or, whether an Order should be made

[SC's – is there a good network to support decision making informally?]

If the person is 'in need of a Guardian', who should that person be?

- Suitable
- Able to act in the best interests of the person
- No conflicts of interest

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