

The Registrar at a Local Court can witness a standard Appointment of Enduring Guardian form, but cannot complete the forms or give you legal advice. If you require assistance with a complex enduring guardianship appointment you will need to contact a solicitor.

This information sheet is a brief guide only. There are many publications available. For more information:

- Guardianship Tribunal – www.gt.nsw.gov.au
- Office of Public Guardian www.lawlink.nsw.gov.au/opg
- NSW Department of Ageing, Disability & Homecare – www.dadhc.nsw.gov.au

Where to get Forms

You can download an Appointment of Enduring Guardian form from the Guardianship Tribunal at www.gt.nsw.gov.au or you can purchase a *Prepare your own Enduring Power of Attorney and Enduring Guardianship Pack* available at post offices.

What is Enduring Guardianship?

Enduring Guardianship allows you to appoint a person to make health and lifestyle decisions on your behalf if you lose the capacity to make your own decisions in the future. The person you appoint should be someone you can trust to make decisions in your best interests. The person you appoint must be over the age of 18 years. You can appoint more than one enduring guardian and an alternative guardian.

An Enduring Guardianship appointment cannot be used for property or financial decisions. You should appoint an Enduring Power of Attorney if you want a particular person to make these decisions.

A guardian can only consent to medical and dental treatment that will promote or maintain your health and well being, and cannot consent to treatment that you object to.

You cannot appoint your guardian to make any decisions that are contrary to law. A guardian cannot make or alter your will on your behalf.

Is it the same as an Advanced Directive?

No. Enduring guardianship is about the legal appointment of a person to make health and lifestyle decisions. An Advanced Directive is a document that sets out your views and wishes about future medical treatment. More information is available from NSW Health www.health.nsw.gov.au

When does the Enduring Guardian start?

The appointment of your enduring guardian takes effect only if you lose the capacity to make your own personal or lifestyle decisions and remains in effect until you regain capacity or die.

A person in need of a guardian means a person who, because of a disability, is totally or partially incapable of making decisions.

Witnessing an Enduring Guardianship

An eligible witness must witness an Appointment of an Enduring Guardian. Persons who may witness include:

- An Australian Legal Practitioner,
- A Registrar of the Local Court - contact the Local Court to make an appointment if you want a Registrar to witness,
- An overseas-registered foreign lawyer,
- An approved employee of NSW Trustee and Guardian or the Office of the Public Guardian.

The witness is required to do certain things before signing, including:

1. Explain the effect of the appointment to you, and
2. Certify that you appear to understand the effect of the appointment, and
3. Witness each person signing.

The person you appoint as your guardian will then need to accept the appointment by signing the form and having it witnessed.

Proof of Identity

If you have made an appointment at the Local Court for a Registrar to witness, you will need to bring suitable identification for the Registrar to confirm who you are.

Do I need to register the appointment?

No. However, if you want to, you can register an Enduring Guardianship appointment in the General Register of Deeds at Land and Property Services NSW for safe keeping. There is a registration fee payable.

Need help?

LawAccess NSW is a free legal information, assistance and referral service for people who live in NSW or who have a legal problem in NSW. Ph: 1300 888 529 (TTY 1300 889 529), website www.lawaccess.nsw.gov.au

If you need an interpreter call 131 450 and ask to be transferred to LawAccess NSW.

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Disclaimer: This information sheet has been prepared for general information purposes only. While every care has been taken to ensure its accuracy, you should seek independent legal advice about your matter.