



onguard

A regular newsletter for guardians in NSW

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Substitute Consent: what the law says

The Public Guardian has updated a booklet on what the law says when a person cannot give consent to medical and dental treatment. It outlines who can give consent and the sorts of decisions that can be made. This is a useful guide for guardians and healthcare professionals where there is a need to seek and make substitute decisions about medical and dental treatment. This booklet can be downloaded from our website www.lawlink.nsw.gov.au/opg or you can contact PGSU for your free copy.

LawAssist can help you if you have a legal problem and are representing yourself. The website www.lawaccess.nsw.gov.au explains legal procedures and forms for Local Court cases, but is not legal advice. Each LawAssist topic provides:

- step by step guides to running your case
- instructions for filling out court forms
- checklists and frequently asked questions
- information on alternatives to court
- contacts for further information and advice

You don't usually need representation at the Guardianship Tribunal, as they require the parties and witnesses to give their evidence and express their views in their own words. However, the *Guardianship Act* does allow for people who are parties to a hearing to be represented by a lawyer or another advocate. This only happens with the permission (leave) of the Tribunal. The Tribunal only grants this permission if it believes that the person concerned would be disadvantaged without it. If you think you or another party should be represented, discuss this with a Tribunal staff member.

Contact Details

phone

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DID YOU KNOW?

Section 31(F) and Section 100 of the Guardianship Act state that guardians are free from liability if acting in good faith.

Guardians are not able to make a will, appear in court, vote or consent to marriage for the person under guardianship.

FOI replaced by GIPA Act

From 1 July 2010, the *Government Information (Public Access) Act 2009* (GIPA Act) replaced the *Freedom of Information Act 1989*. Under the new law, state and local government agencies will proactively release more information than ever before to the public. The GIPA Act applies to all NSW government agencies, including local councils, state-owned corporations, Ministers and their staff.

The NSW Office of the Information Commissioner (OIC) is an independent statutory authority. It promotes awareness of the new law, provides assistance and training to government agencies and the public, and handles complaints. The OIC has developed a range of resources to help members of the public to understand their rights under the new system.

From 1 July 2010, all government agencies were required to proactively release a range of information on their websites and in other accessible formats. This means that formal applications for access to information should be a last resort. To access information from a government agency:

- search the agency's website, to see if it is already available
- contact the government agency and ask for the information.

The agency will decide whether the information you want:

- is open access information that is readily available. If it is, they should tell you where and how you can get the information.
- should be made available as part of a 'proactive release' of information.
- can be disclosed to you through 'informal release', for example where no third party personal information is involved.

In our last edition we invited you to tell us about your experiences. Keep your stories coming! Email informationssupport@opg.nsw.gov.au

- requires a 'formal access application', for example because consultation with a third party is required. If you are unable to access government information via these methods, contact the OIC for assistance.

Visit the OIC website at www.oic.nsw.gov.au or call 1800 INFOCOM 1800 463 626. The OIC is at Level 11, 1 Castlereagh Street, Sydney.

Legal Services & Assistance

LawAccess is a free government telephone service providing legal information, advice, referrals, factsheets & guides to help with legal issues 1800 888 529 www.lawaccess.nsw.gov.au

Mental Health Advocacy Service provides free legal advice and assistance about mental health law, represent people in hearings that relate to their detention and treatment in hospitals and the community, and the management of their money, It now also provide representation for people with other disabilities before the Guardianship Tribunal 02 9745 4277

Intellectual Disability Rights Service is a community legal centre working with people with an intellectual disability to exercise and advance their rights 1800 666 611

Legal Services Commissioner receives all complaints about solicitors and barristers in NSW 1800 242 958

Administrative Decisions Tribunal reviews specific administrative decisions of NSW Government agencies including Guardianship Tribunal and Public Guardian 02 9223 4677

The Private Guardian Support Unit (PGSU) is a free and confidential information and support service for private guardians in NSW. PGSU is a branch of the Public Guardian and is part of the Department of Attorney General and Justice and is not part of the Guardianship Tribunal or NSW Trustee & Guardian. The PGSU publishes *Onguard* and *Now You're the Guardian*.

This document has been prepared by the PGSU for only general information purposes.

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This information can be provided in alternative formats such as braille, audiotape, large print or computer disk. Please contact the PGSU for assistance.