



Office of the Public Guardian and Trustee

Roles of the Office of the Public Guardian and Trustee (PGT)

- Manage the financial affairs of mentally incapable adults
- Investigate allegations of risk of serious adverse effects to incapable adults
- Make treatment & placement decisions for incapable adults
- Guardian of the person if appointed by court

Roles of the Office of the Public Guardian and Trustee (cont'd)

- Litigation guardian/legal representative in litigation matters before the courts
- Accountant of the Superior Court of Justice
- Monitor the use of charitable property in Ontario
- Administer estates of deceased persons who die in Ontario without a will and without next-of-kin in Ontario

Where are we?

- Toronto 416-314-2800/800-366-0335
- Hamilton 905-546-8300/800-891-0502
- London 519-660-3140/800-891-0504
- Ottawa 613-241-1202/800-891-0506
- Sudbury 705-564-3185/800-891-0503
- Thunder Bay 807-343-7230/800-891-0503

How does the PGT become guardian of property?

- Under the *Mental Health Act* - for people in psychiatric facilities
- Under the *Substitute Decisions Act* – for those in the community or not in a psychiatric facility
- Court-appointed guardian

What does PGT do as guardian of property?

- Notify client of right of appeal finding of incapacity
- Supportive family members asked if they wish to apply to replace the OPGT as guardian
- Redirect client's mail
- Make arrangement to pay expenses
- Contact creditors
- Apply for any entitlements

continued

- Deal with client's chattels and real property
- May conduct an investigation
- Develop budget in relation to client's income
- Gather information from client, family, care providers, friends etc
- Deal with client's legal issues

What can't a guardian of property do?

- Can't make a will
- Can't make "personal care decisions" such as housing or medical treatment

** A guardian of property is not a source of funds for the incapable person

How to terminate the PGT's involvement?

- If appointed by the court, must go back to court
- POA done prior to incapacity and undertaking from attorney to act in accordance with POA
- Client regains capacity
- Client dies
- Family member approved to replace OPGT

Guardianship Investigations

- PGT has obligation to investigate allegations that a person is mentally incapable and that serious adverse effects are occurring or may occur
- Anyone can make an allegation
- Applies to both financial and personal care

From allegation to investigation

Allegations are screened to look at:

- Are there alternate solutions possible
- Evidence of incapacity
- Evidence of risk
- Whether the prompt appointment of a guardian is necessary to prevent serious adverse effects

How are allegations screened?

We need evidence re: mental incapacity such as:

- does the person have memory problems?
- is he/she making inappropriate decisions?
- are there noticeable changes in their lifestyle, appearance or health?

CAUTION: bad judgment is not necessarily evidence of incapacity

How are allegations screened (cont'd)

We need evidence re: serious adverse effects such as:

- is the person putting him/herself at risk, or is someone else putting that person at risk?
- inappropriate spending?
- neglecting one's bills?
- is someone, without the authority to do so, making decisions for the person?

How are allegations screened (cont'd)

We need evidence that prompt appointment of a guardian will halt/prevent the serious adverse effects

Purpose of an investigation

To determine whether the PGT should apply to court to be appointed guardian of property or of the person

It is very intrusive – alternatives are usually preferable

Possible outcomes of an investigation

- New power of attorney for property if person capable
- Establish informal supports to help with finances
- Capacity assessment so PGT becomes guardian of property
- Trusteeships of government pensions or benefits
- Family or friend is appointed by the court
- PGT is appointed by the court as LAST RESORT

What can PGT do during an investigation?

- Access personal financial and medical information
- Gain access to interview alleged incapable person
- Can obtain warrant and police assistance to enforce right to information

***** Cannot intervene until authority is obtained**

PGT right to access information during an investigation

We can collect information for the purposes of an investigation from the following:

- the person's guardian
- a member of a College of a health profession (e.g. doctors, nurses)
- a facility e.g. a hospital
- person who operates a controlled access residence
i.e. a group home
- a bank or other financial institution

Misconceptions

Allegations \neq investigations

Abuse \neq incapacity

Investigation \neq guardianship

Incapacity \neq guardianship

How to make an allegation

Contact the Guardianship Investigation Unit:

- 416-327-6348/800-366-0335 and ask for guardianship investigations
- fax to 416-314-2642

Provide information about:

- alleged incapacity
- risk to the person re: finances or personal care
- alternatives that have been tried