

Policies and Procedures

Notifications to the Public Guardian

Definitions

notifiable matter	Is a matter that must be notified to the Public Guardian.
notification	Means a notification to the Public Guardian in accordance with this policy and procedure.
OPG officer	Means any individual working within the Office of the Public Guardian.
proposed represented person	Means an adult who is the subject of an application for guardianship.
represented person	Means an adult for whom a guardianship order is in place.

Acronyms

The following acronyms are used in this document

Acronym	Full form
AGO	Adult Guardianship Officer
IEO	Inquiry and Engagement Officer
OPG	Office of the Public Guardian
The Act	<i>Guardianship of Adults Act 2016</i>
The Regulations	<i>Guardianship of Adults Regulations 2016</i>
The Tribunal	Northern Territory Civil and Administrative Tribunal
OPGIS	Office of the Public Guardian Information System

Purpose

This policy provides direction for employees of the Office of the Public Guardian (OPG) regarding:

- when the Public Guardian must be notified of matters involving a represented person or proposed represented person
- the process for how notifications are made to the Public Guardian
- the process for obtaining a decision of the Public Guardian in relation to a notifiable matter.

Target Audience

This document applies to all persons working within OPG but particularly delegated Adult Guardianship Officers (AGOs) and Inquiry and Engagement Officers (IEOs).

Policy Statement

The Northern Territory Civil and Administrative Tribunal (the Tribunal) may appoint the Public Guardian as guardian of last resort for a represented person where there is no individual who is eligible for this appointment.

The Public Guardian has decision-making authority for all represented persons under the guardianship of the Public Guardian. AGOs and IEOs are delegated with authority for specific decisions by the Public Guardian (see [Guardianship decision-making delegations](#)). This delegation does not affect the Public Guardian's decision-making authority.

The Public Guardian must be notified of a range of matters involving represented persons under the guardianship of the Public Guardian or proposed represented persons who are the subject of an application for guardianship.

Notifications to the Public Guardian may be for the purpose of:

- obtaining a decision from the Public Guardian
- obtaining direction from the Public Guardian regarding required actions and outcomes
- the consideration of the Public Guardian to inform systemic action and advocacy.

Procedures

These procedures relate to when and how notifications must be made to the Public Guardian in relation to a represented person or proposed represented person.

This section includes procedures for:

- Notifications to the Public Guardian
- When a decision is needed from the Public Guardian in relation to a notifiable matter
- The notification process
- After a notification is made

Notification to the Public Guardian

A notification is made to the Public Guardian using the Notification to the Public Guardian process in the Office of the Public Guardian Information System (OPGIS).

A notification is to be made to the Public Guardian in all matters where:

- a represented person or a proposed represented person may have been the subject of:
 - sexual harm to self or others
 - physical harm to self or others
 - verbal, emotional, psychological or financial abuse
 - neglect
 - unlawful health care action
 - unauthorised restrictive practices

and that has resulted in a significant negative outcome for the person

- there is a risk of death or serious injury to a represented person or proposed represented person (this may include issues relating to self-harm, substance abuse, homelessness or absence from support)
- a represented person or a proposed represented person has died in unexpected or suspicious circumstances, including cases of suicide and all matters that have been reported to the Coroner

- a represented person or proposed represented person is approaching end of life and end of life decisions may be required of the Public Guardian
- an application for approval for restricted health care is received in relation to a represented person under the guardianship of a private guardian
- an application for approval for restricted health care is proposed in relation to a represented person under the guardianship of the Public Guardian
- there is known systemic elder abuse by a facility or organisation (while this may be outside the jurisdiction of the Public Guardian, it is possible that residents at the facility may be the subject of neglect and are in the need of a guardian)
- there has been a breach of privacy or data protection by an OPG officer or a service provider
- where a represented person tests positive to COVID-19 or where there are serious risks for the represented person (for example, someone in an aged care facility where the represented person resides has tested positive and the OPG officer believes adequate protections haven't been taken in relation to a represented person)
- a represented person under the guardianship of the Public Guardian has had a baby
- there is potential negative media interest in relation to a represented person under the guardianship of the Public Guardian or in relation to the Office of the Public Guardian.

All notifications to the Public Guardian must go through the OPG officer's Team Manager and Director and must be made as soon as the OPG officer is advised of the matter but in any event within one working day of the OPG officer being advised.

Once a notification is made it is the responsibility of the relevant Team Manager to actively monitor the notification and unless otherwise directed keep their Director updated. The relevant Director is responsible for advising the Public Guardian of significant developments.

If an OPG officer is unsure if a notification to the Public Guardian is required they should discuss the matter with their Team Manager.

When a decision is needed from the Public Guardian in relation to a notifiable matter

End of life matters

At the earliest opportunity the Public Guardian must be notified of all potential end of life matters. This includes any matter where refusal of treatment is a live consideration, irrespective of whether that matter is ultimately resolved without the need to refuse treatment.

This does not include matters where it is clear from the outset that no treatment will be offered and there is no health care decision required of the Public Guardian.

In all other circumstances, any end of life matters must be discussed with the AGO's Team Manager and a notification commenced as soon as possible. The notification should include the AGO's considerations, the recommended course of action and reasons. In all cases where a decision is likely to result in the end of the life of a represented person, the Public Guardian will be the decision maker.

Restricted Health Care

Restricted Health Care includes the following:

- sterilisation of an adult, unless it occurs as a consequence of health care action that is taken primarily to treat an illness or injury to the adult
- termination of a pregnancy of an adult, unless it occurs as a consequence of health care action that is taken primarily to treat an illness or injury to the adult

- removal from an adult of non-regenerative tissues for transplantation to another person
- health care provided for medical research purposes
- new health care of a kind that is not yet accepted as evidence-based, best practice health care by a substantial number of health care providers specialising in the relevant area of health care
- electroconvulsive therapy.

Health Care provided for Medical Research Purposes

Medical research purposes is classified as restricted health care but is not defined in the Act. The Act does state that health care provided for medical research purposes does not include the following:

- a non-intrusive examination of the adult
- observation of an adult's activities
- collecting information from or about an adult
- health care prescribed in the *Guardianship of Adults Regulations 2016* as not provided for medical research purposes¹.

Approval to make an application in relation to restricted health care

Approval for any restricted health care must be obtained from the Tribunal. An application for this approval is made using a *Form AG8 Application regarding Health Care Action under the Advance Personal Planning Act 2013*. Any proposed restricted health care must be discussed with the AGO's Team Manager and a notification prepared with the completed Form AG8 attached. The notification should include the AGO's considerations, the recommended course of action and reasons. In all matters where an application for approval for restricted health care is proposed, the Public Guardian will be the decision maker in relation to the making of the application.

The Notification Process

All notifications to the Public Guardian are completed in the represented person's OPGIS file. The 'PG Notification' tab in OPGIS guides the OPG officer through the process of notifying the Public Guardian of a notifiable matter.

Once a PG Notification is created the OPG Officer must complete the Notification to the Public Guardian process. This is the process in which all information about the notifiable matter is recorded and the information is sent to the Public Guardian through the OPG Officer's Team Manager and Director in OPGIS.

If a notifiable matter has been referred to the Coroner, the OPG officer's Director will email details of the matter to the OPG Legal Policy Officer.

Completing a Notification to the Public Guardian

Brief summary of the issue

Summarise all relevant detail to inform the Public Guardian. Include information such as:

- the represented person's circumstances including if the Public Guardian is guardian for the represented person, the date of the order and the decision-making authority of the Public Guardian
- the details of any joint guardian
- details of the notifiable matter including what happened, who was involved and where and when it happened

¹ At the time when this policy is approved there is no health care prescribed in the Regulations for this purpose.

- if there is risk of harm to the represented person or proposed represented person – details of the risk assessment and strategies to minimise the risk/s. Refer risk assessment and mitigation strategy below.
- if there is the potential for media interest and the reasons for this potential media interest
- if there have been specific approaches by the media, include the name, media outlet and contact details
- if the matter has been referred to police, include the date it was referred, the PROMIS reference number, the date of referral, the name of the police officer and a contact number and any police action being taken.

If a decision is needed from the Public Guardian in relation to the notifiable matter the OPG officer's considerations, a recommended decision and reasons for this recommendation must be included.

Actions Taken

The OPG officer must include all actions already taken or that the OPG officer proposes to take in response to the notification.

Actions Required

Include all actions required from any OPG officer, the Team Manager and Director and the Public Guardian. It should clearly identify who is responsible for each action.

Actions required may include a request to refer the matter to an external agency such as the NDIS Quality and Safeguards Commission or the NT Ombudsman.

If a decision is needed from the Public Guardian in relation to the notifiable matter the decision should be included in this section and any due dates or time restrictions clearly stated.

Risk assessment and mitigation strategy

This risk assessment and mitigation strategy should be used where the represented person or proposed represented person is at risk of harm. Using the Risk Matrix (below), assess the seriousness and likelihood of the harm.

- Under 'Extent and Level of Harm' select whether the harm is considered to be very serious, serious, moderate or minor.
- Under 'Likelihood and duration of harm' select whether the likelihood is almost certain, likely, possible or unlikely.
- Record the rating in 'Harm Rating' section: harm rating – extremely harmful, harmful, somewhat harmful, slightly harmful.

Once the risk rating has been determined, the OPG officer should include details of the strategy to minimise the risk of any harm under the 'Brief Summary of Harm Issue' section.

Risk Matrix

Likelihood and duration of harm	Extent and Level of Harm			
	Very serious May result in death or serious injury	Serious Will result in substantial impact for the represented person or proposed represented person	Moderate Will have an impact on the represented person or proposed represented person but cannot be considered substantial or abiding	Minor Will have limited impact on the represented person or proposed represented person
Almost certain Most likely to occur immediately or in a short period of time.	Extremely harmful	Extremely harmful	Harmful	Somewhat harmful
Likely Likely to occur.	Extremely harmful	Extremely harmful	Somewhat harmful	Somewhat harmful
Possible May occur	Extremely harmful	Harmful	Somewhat harmful	Slightly harmful
Unlikely Unlikely to occur or likelihood can be reduced with controls.	Harmful	Harmful	Slightly harmful	Slightly harmful

Table 1: Assessing risks to represented person or proposed represented person.

After a notification is made

The notification will remain open in the OPG officer's case load until it has been reviewed by the Public Guardian and no further action is required on the part of the OPG officer.

Actions by the Public Guardian

Upon receipt of the Notification to the Public Guardian Form, the Public Guardian will:

- action in OPGIS
- include details of any additional actions to be taken and identify who will undertake these actions.
- consider what action might be taken by the Public Guardian and document

- consider if the notifiable matter should be referred to an external agency, including the:
 - NDIS Quality and Safeguards Commissioner
 - Department of Health
 - Health Complaints Commissioner
 - National Disability Insurance Agency
 - NT Ombudsman
 - OTHER (Insert details of name and address of referral in field)
- if no further action is required – close the notification (Date closed by Public Guardian).

Actions by Director

The relevant Director will:

- if follow up is required, seek further clarification from the OPG officer
- if the matter has been referred to an external agency, circulate any response received from that agency to the Public Guardian

If a notification remains open, OPGIS will send an email alert to the Director 28 days from the date of the notification. The Director will follow up with the program or external agency (if applicable) as to the current status of the situation.

Further information for the Public Guardian

Any additional information for the attention of the Public Guardian may be emailed to them with a copy attached (as an email or a document) to the Notification record.

In the absence of the Public Guardian

In cases where matters have been referred to an external agency and there is follow up required, in the absence of the Public Guardian, this follow up should be undertaken by the relevant Director.

Administration

The notification in OPGIS should be managed like any other OPGIS case. There will be no hard file for the notifiable matter and all information will be captured in OPGIS.

All emails associated with the notifiable matter should be saved under case notes. Other actions such as incoming and outgoing telephone calls, legal consult and meetings should also be recorded. All documents associated with the notifiable matter should be saved to the 'Documents' tab.

Review

This document is next due for review in May 2023. However, we are committed to continuous improvement and welcome feedback about our policy documents at any time.

If you have a suggestion about how to improve this document, please email the Policy Team - Secretariat.OPG@nt.gov.au.

Document Quality Assurance

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TRM Number	2019/35939/0015~0001

Legislative Basis and Related Documents

Key Legislation, By-Laws, Standards, Delegations, Aligned & Supporting Documents	Guardianship of Adults Act 2016 (NT) Advance Personal Planning Act 2013 (NT)
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