

Definitions

This is a list of terms which have been used in the Carers WA carer survey: Guardianship Laws Review.

Administration order: an order made under section 64 and includes an order so made which is amended, continued or replaced under any other provision of this Act;

Administrator: the person appointed as an administrator under section 64 or the Public Advocate acting under section 99 of the Act.

Advanced Health Directive: A legal document completed by a competent adult that contains decisions regarding future medical treatment¹.

Advocate: someone who speaks for, supports or represents a person or group of people who may need extra help or protection².

Best Interests Standard: Depending on context, the requirement in the Act that the primary concern of SAT shall be the best interest of a represented person or a person in respect of whom an application is made or the requirement in the Act that guardians and administrators act according to their opinion of the best interests of the represented person.

Carer: A carer is someone who provides unpaid care or assistance to a person with disability, chronic illness, mental ill health, substance dependency, or who is frail. A person is not a carer if the care they provide is done so under a work or volunteer contract³.

Decisional Capacity: A person's ability to make a decision (different to legal capacity).

Enduring Power of Attorney (EPA): A legal document a person can make that gives another person/s, or organisation, the legal authority to make financial and/or property decisions on their behalf⁴.

Enduring Power of Guardianship (EPG): a legal document that authorises a person of your choice to make important personal, lifestyle and treatment decisions on your behalf, should you ever become incapable of making such decisions yourself⁵.

Guardian: A person/s appointed as a guardian under section 43 of the Act. Guardians make personal, lifestyle and treatment-related decisions in the best interests of a person with a decision-making disability.

Guardian and administrator of last resort: the Public Advocate acts as the guardian and administrator of last resort in WA.

Guardianship order: An order made by the relevant tribunal appointing a guardian. Guardianship orders specify the areas in which the guardian can make decisions⁶.

¹ (WA Department of Health, 2024)

² (Cambridge Dictionary, 2024)

³ (WA Government, 2004)

⁴ (The Government of Western Australia, 2024)

⁵ (The Government of Western Australia, 2024)

⁶ (Government of Western Australia, 2024)

Legal Capacity: Legal capacity has two key aspects: the ability to hold rights and duties (legal standing) and the ability to exercise those rights and duties and to perform acts with legal effect (legal agency).

Office of the Public Advocate: Provides access to advocacy, guardianship and administration services which protect and promote the financial interests and welfare of adults with a decision-making disability⁷.

Office of the Public Trustee: offers independent, professional trustee and asset management services to the Western Australian community. These include Will and Enduring Power of Attorney drafting, deceased estate administration, and personal trustee and administration services⁸.

Public Advocate: the independent statutory officer promoting and protecting the rights of adult Western Australians with decision-making disabilities to reduce the risk of neglect, exploitation and abuse⁹.

Public Trustee: The statutory officer charged with administering the Public Trust Office pursuant to s 4 of the Public Trustee Act 1941 (WA).

Represented person: Any person who has a guardianship order and/or administration order in place.

State Administrative Tribunal (SAT):

Supported Decision Making: Where an individual (supporter) assists some other person (supported person) to exercise their right to make their own decisions.

Will: A legal document that describes how you wish your assets to be distributed upon your death¹⁰.

Will and preferences standard: An alternative standard to the best interests standard that requires decisions to be based on a represented person's will and preferences.

⁷ (Government of Western Australia, 2024)

⁸ (Government of Western Australia, 2024)

⁹ (Government of Western Australia, 2024)

¹⁰ (Government of Western Australia, 2024)