



>>ENDURING GUARDIANSHIP

We all prefer to decide for ourselves where we live, who we see, which doctor we go to, what medical treatment we will receive and what services we will have. Unfortunately this is not always possible. Every day people are involved in accidents or become sick. Sometimes this can lead to them being unable to make decisions for themselves.

Appointing an Enduring Guardian is one way of planning ahead by appointing someone you trust to make decisions on your behalf in the event that you are unable to do so.

This Plain English Guide answers some of the more commonly asked questions about Enduring Guardianship, but remember your solicitor is available to answer any other questions or provide advice when you need it.

>>What is an enduring guardian?

An enduring guardian is someone you choose to make personal and lifestyle decisions on your behalf when you are not capable of doing this for yourself. You can appoint more than one guardian if you wish. You choose which decisions you want your enduring guardian to make. These are called functions. You can give your guardian directions on how to carry out the functions.

>>Who can appoint an enduring guardian?

If you are over 18 years, you can appoint one or more people to be your guardian. When you appoint an enduring guardian you must have the capacity to understand what you are doing.

>>When does enduring guardianship end?

Enduring guardianship ends when you die, if you revoke the appointment, or if the Tribunal makes a guardianship order or suspends the appointment.

>>What sort of decisions can an enduring guardian make?

You can give your enduring guardian as many or as few functions as you like. You may also give the guardian directions about how to exercise the decision-making functions you give them. For example you can direct your guardian to consult with your close friend on each function whenever possible. You can give your guardian a function, for example to decide where you should live, and direct that they can override your objection to their decision if it is in your best interests to do so. You cannot give your guardian the authority to override your objection to medical treatment. Only the Guardianship Tribunal can do this.

>>What sort of decisions is an enduring guardian unable to make?

An enduring guardian cannot make a Will for you, vote on your behalf, consent to marriage, manage your finances or override your objections, if any, to medical treatment.



>>Who can be an enduring guardian?

The person you appoint as your enduring guardian must be at least 18 years old. Your chosen guardian should be someone you trust to make decisions in your best interests if you are not capable of making decisions for yourself. Your guardian must act within the principles of the Guardianship Act, in your best interest and within the law. You cannot give your guardian a function or a direction which would involve them in an unlawful act.

The appointed guardian cannot be a person providing treatment or care to you on a professional basis at the time of appointment. You can appoint more than one person. If you appoint more than one enduring guardian, you can direct them to act jointly or separately.

>>How do I appoint an enduring guardian?

You need to discuss the appointment with your chosen guardian and make sure they are willing to take this responsibility if you can no longer make decisions for yourself. It would be wise to discuss the functions in detail and ensure that your guardian clearly understands your wishes and any direction associated with any function.

You may also wish to discuss the appointment with other significant people in your life.

Once you have discussed the appointment with these people, you should make an appointment to see your solicitor at Coleman & Greig. Your solicitor will further explain enduring guardianship, prepare the appropriate documentation and witness your signature.

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>>What should I do with the enduring guardianship appointment?

It is a good idea to keep the appointment form in safe custody at Coleman & Greig. Tell someone else where it is. Give a copy to your guardian. You may wish to give copies to significant people in your life.

>>When does it take effect?

The appointment of your enduring guardian takes effect only if you become unable to make your own personal and lifestyle decisions. Your guardian may wish to seek the opinion of a medical practitioner about your capacity to make decisions before acting on your behalf.

>>Can I change my mind?

While you are capable of making your own decisions, you can revoke the appointment of an enduring guardian. You have to advise the enduring guardian in writing that their appointment has been revoked. Only the Guardianship Tribunal can make changes to the appointment if you have lost the capacity to do this for yourself.

>>What if someone else has concerns about the actions of my enduring guardian?

If you are not capable of making your own decisions and others are concerned about your welfare because of your enduring guardian's actions, anyone with a genuine concern for your welfare can apply to the Guardianship Tribunal for a review of the appointment. The Tribunal can revoke the appointment or confirm it.

The Tribunal does not supervise enduring guardians and will only become involved if it receives an application with respect to you, or receives information which leads it to initiate a review of your appointment in your interests.