



# PUBLIC TRUSTEE AND GUARDIAN POLICY

DOCUMENT PROPERTIES	
Name of Policy	PTG Directions
PTG Policy Number	2017-7
Endorsed by SLG	24 August 2016
Authorised by	Andrew Taylor, Public Trustee and Guardian
Date for review (plus three years)	24 August 2019

## LEGISLATION

The 'Director-General Appointments' is an instrument through which the Director-General, Justice and Community Safety (JACS) exercises authority to make delegations under legislation.

In the case of Public Trustee and Guardian (PTG) -

- S 6(1) of the *Public Trustee and Guardian Act 1985* (the Act) provides for the Director-General (JACS) to appoint one or more persons as Deputy PTG.
- S 6(2) of the Act provides that a Deputy PTG may exercise a function of the PTG, subject to any direction of the PTG.
- S 9A of the Act authorises the Public Trustee and Guardian to delegate to a member of the PTG staff any function under the Act or another Territory law.
- S 9A(2) of the Act provides however that the PTG may only delegate the following functions to a person exercising the functions of Deputy PTG:
  - (a) acting as a guardian or Director when appointed by the ACAT;
  - (b) applying to the ACAT for an appointment of a person as guardian or Director under s 19C (b).

These Directions do not cover Financial Delegations made by the PTG.

## DEFINITION/S

N/A

## DELEGATIONS

The Director-General JACS has appointed the occupants of the following PTG position numbers as Deputy PTG, subject to the direction of the PTG -

- P38578 (SOGA Director, Guardianship)
- P12990 (Legal 2 Director, Wills, Estates and Trusts)
- P39759 (SOGA Director, Wills, Estates and Trusts)
- P38577 (SOGA Director, Finance)
- P38579 (SOGA Director, Financial Management Services)

By Instrument DGD2016-18, the Director-General has also temporarily delegated the function of Deputy PTG to the following positions pending amendment to the *Public Trustee and Guardian Act 1985*, subject to the direction of the PTG -

- P20341 (SOGC Senior Guardian - Guardianship)
- P19651 (SOGC Senior Guardian - Guardianship)

The intent of the Act is that these appointments are limited to direction by the PTG.

## **DIRECTIONS**

The following Directions apply to Deputy PTGs, noting the following general exceptions -

- The function of discounting or waiving fees, other than for pre-approved persons or classes of persons eg free Wills for persons 65 and over and Aboriginal and Torres Strait Islander persons) is not delegated to Deputy PTG.
- The function of engaging solicitors or briefing counsel for any PTG purposes other than client matters eg estate advice/opinions is not delegated to Deputy PTG.
- The function of seeking advice/opinion from the ACT Government Solicitor may only be exercised with the approval/consent of the PTG in each case.

### **P38578 (SOGA Director, Guardianship)**

All of the functions and powers of the PTG under the *Public Trustee and Guardian Act 1985* and other relevant legislation but limited particularly to matters involving Guardianship, Enduring Power of Attorney matters, decisions etc only. The occupant of this position may also approve financial matters relating to the administration of PTG generally upon request by the Director, Finance Unit or person delegated on the day.

### **P38579 (SOGA Director, Financial Management Services)**

All of the functions and powers of the PTG under the *Public Trustee and Guardian Act 1985* and other relevant legislation but limited particularly to matters involving Financial Management Services, Powers of Attorney, decisions etc only. The occupant of this position may also approve financial matters relating to the administration of PTG generally upon request by the Director, Finance Unit or person delegated on the day.

### **P12990 (Legal 2 Director, Wills, Estates and Trusts)/P39759 (SOG) Director, Wills, Estates and Trusts)**

All of the functions and powers of the PTG under the *Public Trustee and Guardian Act 1985* and other relevant legislation but limited particularly to matters involving Wills, Estates, Powers of Attorney and Trusts, Confiscation of Criminal Assets, decisions etc only. The occupant of this position may also approve financial matters relating to the administration of PTG generally upon request by the Director, Finance Unit or person delegated on the day.

### **P38577 (SOGA Director, Finance)**

All of the functions and powers of the PTG under the *Public Trustee and Guardian Act 1985* and other relevant legislation but limited particularly to matters involving Financial matters associated with client affairs including Estates, Trusts, Financial Management Services, Guardianship, Investment/Funds management, Powers of Attorney, Taxation, decisions etc only. The occupant of this position may also approve financial matters relating to the administration of PTG and may also, from time to time request the other Deputy PTGs to do so.

Persons appointed to or occupying the positions listed below may exercise the functions of the PTG as specified below -

**P20341 (SOGC Senior Guardian - Guardianship)**

**P19651 (SOGC Senior Guardian - Guardianship)**

Only those functions of the PTG at s.9A(2) of the *Public Trustee and Guardian Act 1985* as follows -

- (a) acting as a guardian or Director when appointed by the ACT Civil and Administrative Tribunal (ACAT);
- (b) applying to ACAT for appointment of a person as guardian or Director under s 19C(b).

**POLICY ON EXERCISING DELEGATIONS IN SHORT TERM ABSENCE OF DIRECTOR/DELEGATE**

Determinations/decisions/actions in accordance with these directions are to be made by the Director/Delegate or by the PTG.

In the short term absence of the Director/Delegate, another Director/Delegate may make the determination/decision/action with the advice of the most senior officer available in that Unit. This however can not apply so as to permit decision made in respect to Financial Management to be made by the Director Guardianship Unit and *vice versa*.

Where another Director makes a determination/decision/action in accordance with the above, they, or the relevant Trust Officer, should inform the Director/Delegate of that Unit by email, or on their return.

Enduring Powers of Attorney should be accepted whilst the client is waiting and should, in the first instance be accepted by the Director - Wills/Estates/Trusts, otherwise, by any Director/Delegate.

**END OF POLICY**