



## Enduring Guardian

*Some of the most commonly asked questions about Enduring Guardians are discussed on this page.*

### 1. Who should I appoint as my Enduring Guardian?

It is vital that the person you appoint as your Enduring Guardian is somebody that you trust will make the best health and lifestyle decisions for you when you are incapable of doing so for yourself. The decisions that your Guardian can make are very important, as they will directly affect your health and well being.

People normally choose a trustworthy family member or a relative as their Enduring Guardian. It is important to choose someone who has your best interests at heart, and who you believe will make the right decisions for you.

You can appoint more than one Enduring Guardian. You can also elect whether joint Guardians are to make decisions together, or whether they can make decisions independently without conferring with each other if circumstances require.

### 2. What decisions can't my Enduring Guardian make?

Your Enduring Guardian cannot make decisions about what is known as 'special medical treatment'. Examples of special medical treatment include termination of pregnancies and administering a drug of addiction over a lengthy period of time. If you are under the care of a Guardian, then only the Guardianship Tribunal can decide on whether these treatments can go ahead.

Your Enduring Guardian cannot make decisions about your property or financial affairs, including decisions about your Will. Also they cannot cast any vote on your behalf or consent to marriage.

### 3. What happens if I lose mental capacity and do not have an Enduring Guardian?

If you have not appointed an Enduring Guardian, then a family member or friend will need to apply to the Guardianship Tribunal for an order that they should be your Guardian and be able to make health and lifestyle choices for you. The Guardianship Tribunal will need to consider the evidence available about your situation, and about the people that could be appointed your Guardian. This process can be very stressful, time consuming and expensive, especially if decisions need to be made for you immediately.

Rather than go through this process, it is easier and less expensive for your family if you appoint an Enduring Guardian ahead of time.



**4. What if the actions of my Enduring Guardian are causing concern?**

Anyone with a genuine concern for the way your Guardian is carrying out their role can apply to the Guardianship Tribunal for a review of the actions of the Guardian. The Tribunal has the power to revoke or change the appointment of your Enduring Guardian if it thinks necessary. The Tribunal will initiate a review and possibly appoint a new Enduring Guardian.

**5. Can I cancel my appointment of Enduring Guardian?**

Yes, you can revoke (that is, cancel) your appointment at any time as long as you still have the mental capacity to do so.

It will be necessary to take certain steps if you wish to revoke your appointment of Enduring Guardian, which we can assist you with. It is important that you seek legal advice if you wish to revoke the appointment to ensure that it is done correctly.

**6. When does an Enduring Guardianship end?**

Enduring Guardianship ends when you either revoke the appointment, you die, or if the Guardianship Tribunal makes a particular Order ending the appointment due to a concern about the way your Guardian is carrying out their role.

*If you would like further information, or require assistance, please contact us on (02) 4731 5899 or send us an email by clicking on the 'Contact Us' page on our website.*