



WHAT TO EXPECT AT A TRIBUNAL HEARING

WHAT IS A HEARING?

It is an opportunity for anyone with a genuine and continuing interest in the adult to put their views forward and have them considered by the Tribunal. Parties are always encouraged to put their views in writing to the Tribunal prior to the hearing.

A Tribunal hearing is generally when Tribunal Members hear oral evidence and examine documents about an application. In some instances, it may be decided that an application does not need to go to an oral hearing where parties attend to give oral evidence and the application can be dealt with on the written material alone. If this is the case, all parties who have previously been contacted will be notified by mail that they are not required to attend but should put their views in writing to the Tribunal.

WHERE ARE HEARINGS HELD?

The Tribunal Members travel throughout the State to hold hearings in the town where the adult resides so that they and their families can present their views to the Tribunal in a familiar and supportive environment. People who live in a remote area or who cannot take part in a face-to-face hearing, can participate via a telephone linkup or a video conference.

WHO IS ON THE TRIBUNAL?

There are over 40 Tribunal Members (including three Presidential Members) from a variety of backgrounds such as lawyers, educators, psychologists, social workers, counsellors, mental health practitioners and medical practitioners. Most also have personal experience of a person with impaired decision-making capacity. One, two or three Tribunal Members can hear a matter depending on the complexity of the circumstances.

WHO ATTENDS A TRIBUNAL HEARING?

Anyone who, in the Tribunal's opinion, has a genuine and continuing interest in the welfare of the adult concerned has the right to attend the hearing. Tribunal hearings are also open to the public except in very limited circumstances.

At least 7 days before the hearing is scheduled, the adult concerned in the application will be notified of the hearing in a way that the Tribunal considers most appropriate having regard to their needs, e.g., by direct letter or through another party.

The Tribunal will also, as far as practicable, give notice of the hearing to the following as appropriate:

- the applicant
- members of the adult's family
- the primary carer of the adult
- all current guardians, administrators and attorneys for the adult
- the Adult Guardian
- The Public Trustee of Queensland
- the chief executive of Disability Services Queensland
- the director of Mental Health
- a relevant service provider
- anyone else who the Tribunal considers should be notified.

The Tribunal can also give written notice requiring a person to attend the hearing or provide information.

There is no fee to attend the hearing in person. However, the Tribunal is unable to reimburse any additional costs associated with attending the hearing, e.g., travel or parking. There are also costs incurred by parties if they participate in hearings by telephone or videoconference. If you are required to attend by telephone or videoconference, a Registry Officer can advise of the costs involved.

WHAT HAPPENS IF THE ADULT NEEDS AN INTERPRETER AT THE HEARING?

If you think that the adult will need an interpreter at the hearing you should let the case officer in the registry know as soon as possible. The case officer will arrange for an interpreter to be at the hearing and the Tribunal will be responsible for the cost of the interpreter.

WHAT HAPPENS AT A TRIBUNAL HEARING?

When you arrive for the hearing, you should look for a notice directing you to the hearing room. If you are attending by telephone or videoconference, a Hearing Support Officer will contact you either the day before or the day of the hearing and explain the process to you.

At the hearing, the Tribunal Members will introduce themselves and ask you to introduce yourself.

Throughout the hearing, the Tribunal will make every effort to ensure those attending understand what is happening and participate in the hearing. Prior to the hearing day, arrangements can be made with the case officer for a language interpreter or other communication assistance to be available, if necessary. After considering the evidence, if the Tribunal is satisfied that the adult concerned does not have the capacity to make decisions, the Tribunal decides if a guardian and/or administrator is required, who it will be and the terms of their appointment.

HOW LONG DOES A HEARING LAST?

A hearing before the Tribunal is conducted as simply and as quickly as possible allowing the opportunity for anyone with a genuine and continuing interest in the welfare of the adult concerned to put their views forward and have them considered.

The length of the hearing depends on the complexity of the matter. Straightforward applications may only take an hour or so. Complex matters, such as those where there are disputes between family members or where the adult's welfare or property is at risk, may take longer and could be up to several hours.

WILL A DECISION BE MADE AT THE HEARING?

After the Tribunal has examined all documentation and heard from those attending the hearing, the Tribunal Members will leave the room to consider their decision and return shortly to announce their decision. After announcing their decision they will set out the terms of the order. This finalises the hearing.

If the Tribunal needs more time to consider the application, it may reserve its decision and this means parties will receive the Tribunal's order by mail. Everyone who received notice of the hearing will receive a copy of the order. The order is usually sent within three days of the hearing being finalised.

Occasionally, the Tribunal will not complete the hearing and adjourn the hearing to a later date so that more information can be gathered or to allow evidence to be heard from parties not present.

WHAT TYPE OF DECISIONS CAN THE TRIBUNAL MAKE?

The Guardianship and Administration Act 2000 assumes that every person can make his or her own decisions. Before the Tribunal can appoint a guardian or administrator there must be sufficient evidence that the adult has impaired decision-making capacity, that there is a need for a decision and that without the appointment of a decision maker, the adult's needs will not be adequately met or the adult's interests will not be adequately protected.

The Tribunal can decide a range of matters including:

- making a declaration of an adult's decision-making capacity for some or all matters
- that the informal arrangements in place are adequate to protect the adult
- appointing an administrator to make some or all financial decisions for an adult with impaired decision-making capacity and how long the appointment will last
- appointing a guardian to make some or all personal and health care decisions for an adult with impaired decision-making capacity and how long the appointment will last
- appointing a guardian for an adult with an intellectual or cognitive disability to make certain decisions about restrictive practices. Fact Sheet 8 has more information about restrictive practices
- approving the use of containment and seclusion for an adult with an intellectual or cognitive disability when accompanied by a strategy of positive behaviour support planning. Fact Sheet 8 has more information about restrictive practices
- consenting to special health care for the adult. Fact Sheet 5 has more information about special health care
- making an interim order to deal with an urgent situation. Fact Sheet 7 has more information about interim orders
- making a declaration about the validity and/or scope of an enduring document such as an Enduring Power of Attorney.

The Tribunal may set limits on the types of decisions that a guardian or administrator is empowered to make. This means that sometimes guardians and administrators may only be appointed for specific decisions rather than for all decisions.

If a guardian and/or administrator is appointed, the order is the formal authority to act as the substitute decision maker and must be shown to the relevant authorities when a decision needs to be made.

The decision made by the Tribunal is recorded as a written order and each order is tailored to meet the needs of the adult in the least restrictive way.

WHAT IS CAPACITY FOR A "MATTER"?

The Act refers to capacity for a "matter". This means an adult may have capacity for decision-making in some areas but not in others. For example, capacity to make decisions of a personal nature such as health care but not have capacity to manage some or all of their financial affairs. In this example, the Tribunal would take the least restrictive option and appoint a substitute decision maker for financial matters only.

WHAT IS A TRIBUNAL ORDER?

A Tribunal order is a written document advising the outcome of a Tribunal hearing. It could be an order for the appointment of a guardian for all or some personal matters or the appointment of an administrator for specific areas, e.g., managing the adult's investments. Each order is tailored to meet the needs of the adult in the least restrictive way and will state the duration of any appointments made.

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