



Public Trustee

# Supporting Private Administrators

Information for represented persons and administrators regarding the examination of accounts by the Public Trustee.



The Public Trustee provides quality Will-drafting, and trustee and asset management services to Western Australians.

We can assist you or your loved ones with:

- Wills
- Enduring Powers of Attorney
- Deceased Estate Administration
- Trustee Services
- Financial Administration
- Charitable Giving - Give2Good Foundation

## What is a represented person?

A represented person is a person whom the State Administrative Tribunal (SAT) has declared unable to manage their own financial affairs (for example, due to dementia, mental illness or intellectual disability) and to be in need of an administrator. A hearing is conducted before the SAT makes this decision, which is subject to appeal or review.

## What is an administrator?

An administrator is the person appointed by the SAT, under an Administration Order, to make property and financial decisions on behalf of the represented person. The administrator's role is to use the represented person's money or assets to maximise his or her quality of life. It is about being responsible and careful in making investment and spending decisions.

The SAT might also appoint a guardian. The guardian is responsible for making lifestyle decisions for the represented person (for example, regarding medical

treatment or accommodation). An administrator will often liaise with a legally appointed guardian when considering requests for expenditure.

## What are an administrator's duties?

The duties and obligations of the administrator are contained in the *Guardianship and Administration Act 1990*, the *Guardianship and Administration Regulations 2005* and the Administration Order. The primary role of an administrator is to manage the estate in the represented person's best interests.

Examples of some of the duties and obligations of an administrator are as follows:

- arranging to collect and bank income;
- managing bank accounts;
- attending to the payment of accounts;
- managing assets and liabilities;
- managing and maintaining real estate;
- purchasing and/or selling real estate;
- surrendering life assurance policies;
- recovering debts;
- discharging mortgages;
- preparing and lodging tax returns; and
- carrying on a business.

There are some things an administrator cannot authorise. For example, an administrator cannot make treatment decisions on behalf of the represented person, nor can an administrator compel the represented person to enter into a nursing home or other residential situations against his or her will.



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If the represented person has not appointed an enduring guardian with the relevant authority and/or made an Advance Health Directive (and decisions such as these need to be made), it may be necessary for the appointment of a guardian. For further information, contact the State Administrative Tribunal or the Office of the Public Advocate.

## Does anyone review the Order?

The State Administrative Tribunal is required to review orders periodically. The Order will specify a date for review by the Tribunal. At that review hearing, the Tribunal will determine if the order is still required and whether the scope of the Order is still appropriate. The Tribunal must ensure that the Order remains relevant to the needs of the represented person.

As well as these scheduled reviews, any person (including the represented person or the administrator) can apply to the Tribunal, at any time, for the Order to be reviewed. There are also some grounds for review under the *Guardianship and Administration Act 1990*.

## What is the Public Trustee's role?

The Public Trustee can be involved in the estate of a represented person in the following ways:

- by being appointed as the person's administrator (limited or plenary); or
- by examining the accounts of the represented person which have been prepared by their private administrator.

This brochure provides information about the Public Trustee's role in examining the accounts prepared by a private administrator. To find out more information about the Public Trustee's other roles, please telephone 1300 746 116 or visit [publictrustee.wa.gov.au](http://publictrustee.wa.gov.au).

## What is the Private Administrators Support (or PAS) team?

The PAS Team is the team of people at the Public Trustee who provide guidance and support to private administrators and who examine the accounts prepared on behalf of the represented person.

## What is the process?

When someone is appointed as an administrator, they must complete and submit an Estate Information Form to the Public Trustee within one month of their appointment. Then, in one year's time, and yearly after that, the administrator must submit their accounts for examination to the PAS team. During this time, the PAS team is available to answer any questions administrators have about their role or account keeping duties.



The administrator should inform the PAS team of changes of address or relevant changes of the represented person's circumstances.

## What is the examination of accounts?

The *Guardianship and Administration Act 1990* requires administrators (unless they have been exempted) to keep accounts and to submit these to the Public Trustee for examination on a yearly basis. Sometimes, the accounts will be required at other times as well. The accounts should record a summary of all receipts/ deposits and payments/withdrawals incurred during the reporting period and report the represented person's assets and liabilities.

The accounts should be accompanied by certain supporting documentation, such as copies of bank statements and passbook entries, property and vehicle insurance and receipts for purchases and payments greater than \$400.



### **In its examination, the Public Trustee assesses:**

- whether the accounts should be allowed, an amount should be disallowed, an amount or asset has been omitted and/or a loss has been incurred;
- whether there has been an overall loss to or diminution of the estate, and
- if there has been a loss or diminution, whether to relieve the administrator of liability.

### **Why do the accounts have to be examined?**

It is a major decision to take away a person's control over their affairs and give it to someone else. The preparation of accounts and examination by the Public Trustee is a normal part of an administrator's role and helps to ensure the protection of the represented person and their estate.

### **Can I get a bookkeeper or accountant to help me?**

Yes. Administrators often employ bookkeepers or accountants to help them prepare their annual accounts. The cost must be reasonable and would usually be paid from the represented person's estate.

### **Are administrators paid?**

Administrators are not paid for their time or expertise unless specifically authorised in the Administration Order. Administrators may reimburse themselves for reasonable 'out of pocket' expenses, such as those incurred in the preparation of the accounts.

### **What does it mean when the accounts are 'allowed' or 'disallowed'?**

When the Public Trustee completes its examination and 'allows' the accounts, a letter will be sent to the administrator confirming this. It means that the record keeping is of an acceptable standard and it appears that the administration has been conducted according to law and in the best interests of the represented person.

If amounts are disallowed, or the Public Trustee determines that the estate has suffered a loss, a certificate of loss might be issued and the administrator may be held personally liable for the amount of that loss. The matter might also be referred to the SAT, who may review the suitability of the administrator.

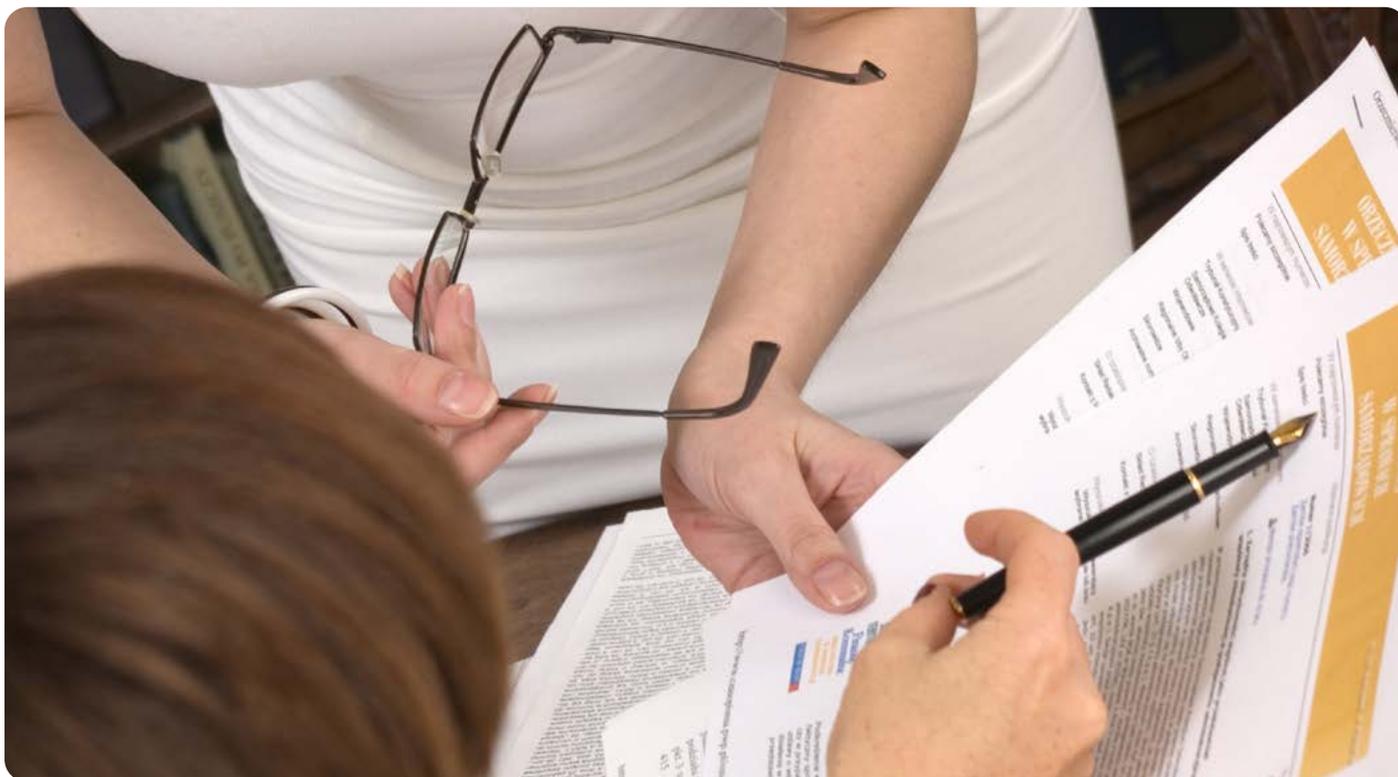
### **What happens if the Public Trustee is thinking about issuing a certificate of loss against an administrator?**

The administrator will be given the chance to comment and their views will be taken into account.

What happens if the Public Trustee then issues a certificate of loss against an administrator?

If a certificate of loss is then issued, and if the administrator disagrees, the SAT has the power to review some of the Public Trustee's decisions. The Supreme Court also has some powers to review decisions.





## What will it cost?

The Public Trustee may charge a fee to examine and make decisions about the accounts submitted for examination. If a fee applies, it is charged at the rate of \$306 per hour, with a minimum fee of \$306. This cost is payable from the represented person's estate.

Fees are not charged when the total value of the represented person's assets is less than \$5,000. This amount does not include the value of:

- household furniture and effects;
- personal jewellery;
- the represented person's principal place of residence or that of their spouse, de facto partner or minor child; or
- the represented person's former principal place of residence if it has been occupied by the represented person for any time during the reporting period and it is not being rented to a third party.

For further details, please refer to the *Private Administrators' Guide* on our website.



## Public Trustee

**Office Hours: 8.30am – 4.30pm (Mon – Fri)**

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