



HS9	Healthy and Safe Services	Guardians and Administrators Policy and Procedures
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<b>What this policy aims to do</b>	To provide information which will assist with understanding guardianship and the process of applying for guardianship
<b>Who this policy applies to</b>	Staff working with service users who have impaired decision-making and may require or already have a guardian or administrator appointed
<b>Who is responsible for carrying out this policy</b>	The Director or responsible managers and service delivery staff
<b>What words used in this policy mean</b>	<p>A <i>'guardian'</i> is a person appointed to make decisions for an adult with impaired decision-making capacity. The guardian's decisions have the same legal force as if the person made the decision themselves.</p> <p>An <i>'administrator'</i> is a person who is nominated to make financial and legal decisions for an adult who does not have the capacity to make decisions for themselves</p>
<b>Legislation this policy is based on</b>	<p><a href="#">National Disability Service Standards</a></p> <p><a href="#">Victorian Human Services Standards</a></p> <p>Victorian Guardianship and Administration Act 1986</p> <p><a href="#">Victorian Civil and Administrative Tribunal</a> (VCAT)</p>
<b>Other relevant policies</b>	<p>A2 Decision-making and Choice</p> <p>HS12 Client Incident Reporting</p> <p>A1 Person-centred Planning</p>

<b>Version</b>	<b>Date</b>	<b>Author/Editor</b>	<b>Approved by</b>	<b>Notes</b>
1.0	26/8/2016	Peter Lane		
1.1	31/5/2018	D Stephenson		Update format
1.2	17/4/19	D Stephenson		Minor edit
1.3	17/6/2020	D Stephenson	S. Reeves	Annual Review, no change

## Guardians and Administrators Policy

MASS supports the rights of service users to have a guardian or administrator appointed when this is appropriate because of impaired decision-making capacity. This usually only occurs when there is no other appropriate person to assist with making decisions or there is disagreement about what is in the best interest of the person.

Parents are legal guardians of a person who is under 18 years of age unless there is a legal order that specifies otherwise.

VCAT is the body that determines whether or not an adult has impaired decision-making capacity and, if necessary, will make an order to appoint a guardian and/or an administrator

MASS will support people and their families who enquire about guardianship to be well informed about the matter by procuring relevant publications and application forms.

MASS will respect the right of a person we support to request changing their guardian at any time. MASS will assist the person we support to apply for the appointment of a new guardian where this is requested.

## Guardian and Administrators Procedures

### Where an application to VCAT is to be lodged:

- ☑ Staff must explain the application to the service user, their family and any significant others involved
- ☑ Staff must keep the person, their family or significant others fully informed of processes
- ☑ The Director or responsible manager must provide written evidence as required on the VCAT application and submit other supporting documents such as medical reports
- ☑ The Director or responsible manager must ensure that if required the service user attends hearings.

### Where a Guardian or Administrator has been appointed:

- ☑ The service user file will contain the guardian/financial manager's details and a copy of the guardianship or financial management order
- ☑ Staff will ensure that a record of all contact with the nominated guardian or administrator is kept in the file
- ☑ The Director or responsible manager will ensure appropriate consent is documented for decisions requiring approval.

### The Director or responsible manager will notify the Guardian if:

- ☑ There are significant changes to service provision or if a service user decides to cease being supported by MASS
- ☑ There are any treatment or medication changes
- ☑ The service user wants to go on a holiday or wants to be absent from their service for an extended period
- ☑ All staff will make sure that lines of communication between MASS and guardians/administrators are established and maintained. This means that the guardian/administrator should be regularly informed of the progress of the person we support as well as crisis situations where the assistance of the guardian/administrator would be of benefit
- ☑ The guardian or administrator should be involved at all levels of planning to meet the individual needs of the person in relation to the terms of the order, including being invited to attend all meetings or case conferences
- ☑ If conflict arises between a guardian/administrator and a service or a person we support, the Director or responsible manager will ensure that the MASS complaints management procedures are implemented.

### Informing other professionals

- ☑ Staff must inform any treating doctor or other medical professional (including hospital staff) that a person we support has an appointed Guardian who has to be contacted for consent issues covered in the Guardianship Order.