



**OFFICE OF THE PUBLIC  
GUARDIAN AND TRUSTEE**

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**The Office of the Public Guardian and Trustee**  
**The Role of the Public Guardian and Trustee**  
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# **THE ROLE OF THE OFFICE OF THE PUBLIC GUARDIAN AND TRUSTEE**

The Office of the Public Guardian and Trustee (“OPGT”) delivers a unique and diverse range of services that safeguard the legal, personal and financial interests of private individuals and estates. It also plays an important role in monitoring the activities of charities in Ontario. Operating within the Family Justice Services Division of the Ministry of the Attorney General, the OPGT has approximately 300 staff operating through offices in six locations throughout Ontario. Services are provided by multi-disciplinary teams of dedicated staff with experience in the health care, social work and financial planning fields. They receive professional support from lawyers, accountants and investigators. A brief description of many of the services offered by the OPGT is set out below.

## **PROTECTING THE RIGHTS AND INTERESTS OF MENTALLY INCAPABLE ADULTS**

### **Conducting Investigations**

The OPGT will conduct an investigation when it receives information that an individual may be incapable and at risk of suffering serious financial or personal harm and no alternative solution is available. An investigation may result in the OPGT asking the court for permission to make decisions on the person’s behalf on a temporary basis.

### **Managing Finances**

The OPGT manages the financial affairs of incapable people who have no one else who is authorized to do so. In this role, which is called “guardian of property”, the OPGT makes all the financial decisions and transactions that these individuals would otherwise handle themselves. This includes receiving and depositing income, making investments, maintaining and selling property, applying for benefits, filing tax returns, paying bills and acting in legal proceedings if required.

### **Making Decisions About Personal Care**

Very occasionally the court will order the OPGT to make decisions of a personal nature for an incapable person in order to protect him or her from extreme physical risk. Such cases typically involve the OPGT being given custodial authority in order to remove the individual from a situation of harm or to prevent access by third parties who are abusing the person. In this role the OPGT will usually also be responsible for making decisions about health care, place of residence, nutrition, hygiene and clothing.

### **Appointing Private Guardians of Property**

The OPGT is authorized to appoint a client's relative to act in its place as guardian of property. The proposed guardian must submit an application which includes a detailed plan to show that the incapable person's finances will be handled appropriately.

### **Arranging Legal Representation in Capacity Proceedings**

The OPGT locates lawyers to act for people who are the subject of a hearing about their mental capacity if ordered to do so by the court or by the Consent and Capacity Board.

### **Making Decisions About Treatment and About Admission to Long-Term Care**

The OPGT is responsible for making decisions on behalf of incapable people where medical treatment is proposed and there are no other people, such as a relative, who are available, capable and willing to do so. The OPGT provides a similar service when admission to a long-term care facility is proposed and it is not possible to obtain informed consent from another authorized person, such as a relative.

### **Reviewing Accounts**

The OPGT reviews accounts when they are submitted by private guardians of property and estate trustees to the court for approval. The OPGT then informs the guardian, estate trustee and the court of any issues or concerns which may need to be addressed.

### **Acting As Litigation Guardian or Legal Representative**

The OPGT may be appointed by the court to make decisions on behalf of individuals who are involved in lawsuits but who lack sufficient capacity to properly instruct a lawyer or to make decisions about significant issues such as a potential settlement. The OPGT acts in this role – which is referred to as 'Litigation Guardian' - only in situations where there are no suitable alternatives.

The OPGT may also be appointed to act as a 'Legal Representative' for a person who lacks capacity. In this role, the OPGT does not make decisions for the individual, but instead acts as an advocate, ensuring that the person's legal rights are protected and that his or her wishes are put before the court.

## **ADMINISTERING ESTATES**

The OPGT protects the interests of potential heirs when an Ontario resident dies leaving an estate and there is no one who can administer it.

The OPGT will apply to be appointed estate trustee if:

- the deceased was an Ontario resident or owned real estate here; and
- the deceased did not make a Will or the executor has since died or become incapable; and
- there are no next-of-kin living in Ontario or the next-of-kin are minors or mentally incapable adults; and
- the estate is valued at a minimum of \$10,000 after payment of the funeral and all debts owing by the estate.

## **OPERATION OF THE ACCOUNTANT OF THE SUPERIOR COURT OF JUSTICE**

The OPGT operates the Accountant of the Superior Court of Justice. The Accountant holds trust funds for children under the age of majority and for parties to litigation, and also serves as a depository for all money, mortgages and securities paid into, or lodged with, the Superior Court of Justice.

## **MONITORING CHARITIES**

This program reviews all applications by organizations who wish to be given charitable status to check that the activities of the organization are, in fact, those which the law defines as “charitable”. The program also assists in resolving situations where gifts to charities are left in a will but the charity is not named or no longer exists. The program investigates complaints about charities and is sometimes involved in court cases if necessary to represent the charitable interest.

## **MAINTAINING TRUST ACCOUNTS FOR CEMETERIES**

Cemetery owners in Ontario may have the OPGT manage the trust funds which they are required by law to keep for the “perpetual care” and maintenance of the grounds and monuments. Cemetery owners withdraw the interest earned, as needed, to cover these costs.

## **CAPACITY ASSESSMENT OFFICE**

The Capacity Assessment Office (CAO) is responsible for the training of capacity assessors, for the maintenance of a roster of qualified capacity assessors, and for operating a financial assistance program to assist individuals who cannot afford to pay the full cost of an assessment. Capacity assessors are not employees of the CAO -- they are independent professionals who are either doctors, nurses, psychologists, registered social workers, or occupational therapists who have received the training and been designated as capacity

assessors. To obtain information on applications for financial assistance or rosters of qualified assessors, call 416-327-6766 or toll free at 1-866-521-1033.

## **OUTREACH AND EDUCATION**

- One of the most significant services provided by the OPGT is the extensive education that the office provides to other service providers, professional groups and the public about issues such as mental incapacity, guardianship processes and powers of attorney. The OPGT conducts numerous outreach sessions each year and has a wide variety of written material available on these and related topics (see below).

## **HOW TO CONTACT THE OPGT**

To request an information session with OPGT staff, please contact the Area Manager in the OPGT regional office closest to you. Telephone numbers and addresses are listed below.

### **Toronto Regional Office**

595 Bay Street, Suite 800, Toronto, ON M5G 2M6  
Tel: 416-314-2800 Toll Free: 1-800-366-0335 Fax: 416-314-2619  
Guardianship Investigations Unit Tel: 416-327-6348  
Treatment Decisions Unit Tel: 416-314-2788

### **Hamilton Office**

119 King Street West, 9<sup>th</sup> floor, Hamilton, ON L8P 4Y7  
Tel: 905-546-8300 Toll Free: 1-800-891-0502 Fax: 905-546-8301

### **London Office**

199 Dundas Street, 1<sup>st</sup> floor, Suite 100, London, ON N6A 1G4  
Tel: 519-660-3140 Toll Free: 1-800-891-0504 Fax: 519-660-3148

### **Ottawa Office**

244 Rideau Street, 3<sup>rd</sup> floor, Ottawa, ON K1N 5Y3  
Tel: 613-241-1202 Toll Free: 1-800-891-0506 Fax: 613-241-1567

### **Sudbury Office**

Government Building, 199 Larch Street, Suite 602, Sudbury, ON P3E 5P9  
Tel: 705-564-3185 Toll-Free: 1-800-564-0503 Fax: 705-564-3193

### **Thunder Bay Office (Sudbury Satellite)**

189 Red River Road, Suite 101, Thunder Bay, ON P7B 1A2  
Tel: 807-343-7230 Fax: 807-343-7223

## FOR MORE INFORMATION

For more detailed information about the programs offered by the OPGT please visit our website at: <http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/> to view copies of our brochures and publications:

Power of Attorney Kits

A Guide to the Substitute Decisions Act

### **The Role of the Office of the Public Guardian and Trustee**

The Register of Guardians

Duty of the Public Guardian and Trustee to arrange legal representation

Duties and Powers of a Guardian of Property

When the Office of the Public Guardian and Trustee becomes your Guardian of Property

Estates Administration

Guardianship Investigations

### **Providing Property Guardianship Services**

Becoming a Guardian of Property

Making Substitute Health Care Decisions

Accountant of the Superior Court of Justice

Powers of Attorney and “Living Wills”

Capacity Assessment

A copy of the *Substitute Decisions Act* can be obtained from Publications Ontario online at [www.gov.on.ca/MBS/english/publications/index.html](http://www.gov.on.ca/MBS/english/publications/index.html) or by mail or phone at:

Publications Ontario

50 Grosvenor Street

Toronto, ON M7A 1N8

1-800-668-9938 Toll Free in Ontario or (416) 326-5300

Information about how to apply to the Consent and Capacity Board can be obtained from the Board’s website at: [www.ccboard.on.ca](http://www.ccboard.on.ca) or by calling the Ministry of Health Information Line at 1-800-461-2036.

Please be advised that the OPGT cannot give individuals, professionals, facilities or organizations legal advice about specific cases or their own legal obligations. These questions should be directed to a lawyer. The Law Society of Upper Canada operates a Lawyer Referral Service and can be reached by calling 1-900-565-4577. Telephoning this number generates a \$6.00 charge on your phone bill in the month following your call.

Lawyers participating in the service will offer you up to a half-hour free consultation that may be over the phone or in person.

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