

# PROTECTING THE RIGHTS AND INTERESTS OF CHILDREN



PUBLIC GUARDIAN  
AND TRUSTEE OF  
BRITISH COLUMBIA

October 2001

Children and youth are valued members of our society. Due to age and inexperience, they are unable to represent themselves in financial and legal matters and must rely on adults to act on their behalf. Most children under the age of 19 have parents or guardians to protect their legal rights and financial interests.

Throughout history, society has recognized its responsibility to protect children when their interests are at risk. In our province today, this responsibility is carried out by the Supreme Court of British Columbia and the Public Guardian and Trustee.

The laws of the province require the Public Guardian and Trustee to monitor situations that involve children's legal rights or financial interests to be sure the parents or other guardians are acting in the child's best interests. Sometimes this means representing a child in legal matters when there is no other person to carry out this responsibility. In providing these services, wherever possible, we work closely with a child's family or other support network.

## **WHAT WE DO ON BEHALF OF CHILDREN IN THE PROVINCE**

### **Review Situations Where a Child's Legal Rights and Financial Interests Need Protection**

Provincial laws require the Public Guardian and Trustee to review situations, when notified, where a child:

- has an interest in the sale or purchase of property;
- is a beneficiary or an heir of an estate;
- is named in a trust that someone wants to change;
- wishes to enter into a contract; and
- must start legal action to pursue a claim within a set amount of time (Limitations Act Notices).

The Public Guardian and Trustee must look at each case to see that the matter is being handled in the child's best interest. If it is not, then the Public Guardian and Trustee will attempt to resolve the situation, and if necessary will start legal action on the child's behalf. The Public Guardian and Trustee takes this step as the "Guardian Ad Litem", or "Litigation Guardian" of the child.

### **Review Proposed Settlements When a Child is Injured**

When a child is injured as a result of another person's negligence, the person, or the person's insurer, may offer money to settle any legal claims the child may have. When that happens, the Public Guardian and Trustee is required to review the proposed settlement, to see that it fairly compensates the child.

Where the proposed settlement is:

*\$50,000 or less* - The Public Guardian and Trustee approves or rejects the settlement.

*Over \$50,000* - The Public Guardian and Trustee makes a recommendation to Court as to whether the settlement is adequate. The Court decides whether the final settlement will be approved.

### **Act to Protect a Child's Legal Rights**

Sometimes, children's interest can conflict with the interests of their parents or guardians. For example, a child may be in a motor vehicle accident where a parent was driving or a guardian may want to use a child's money where it does not benefit the child. In these cases, if no other adult will protect the child's interests, the Public Guardian and Trustee may start a legal action to ensure the child receives fair compensation for injuries, or that the child's property is protected.

## **Act as Trustee of a Child's Funds**

Sometimes the Public Guardian and Trustee is authorized to hold funds in trust for a child. This may be under a will, a trust agreement or a court order.

A child may also be entitled to money as compensation for injuries from an insurance policy or by winning a lottery. This money is usually paid to the Public Guardian and Trustee in trust for the child where it is invested and administered on the child's behalf.

The Public Guardian and Trustee may release money to assist with or cover the cost of a child's care, education, rehabilitation or other special opportunities.

## **Act as Guardian of the Estate for a Child**

When a child is orphaned and no other adult is appointed guardian or when a child is taken into care by the province (becomes a continuing custody ward), the Public Guardian and Trustee and the Director of Child, Family and Community Services become the child's guardians. The Director, as Guardian of the Person, ensures the child is personally cared for. As Guardian of the Estate, the Public Guardian and Trustee is responsible for the child's financial and legal interests. This includes collecting benefits to which the child is entitled, investing and managing a child's money and starting or defending legal action on the child's behalf, when required.

## **WORKING WITH YOU TO PROVIDE OUR SERVICES**

We are working to make our services more efficient, effective and responsive to the needs of children and youth and to others involved in protecting their rights and interests. We welcome your input and support.

## **IF YOU HAVE QUESTIONS FOR US, CONTACT:**

Child and Youth Services Division

Public Guardian and Trustee of British Columbia

Tel (604) 775-3480

Fax (604) 775-2429

## **MAKING USE OF OUR ASSISTANCE:**

This brochure is published by the Public Guardian and Trustee. The office operates under provincial laws to protect the legal rights and financial interest of individuals who cannot protect themselves, including children, vulnerable adults, and deceased or missing persons.

For more information, please call or write:

### **THE PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA**

**700-808 West Hastings Street**

**Vancouver, B.C. V6C 3L3**

**Tel: (604) 660-4444**

**Fax: (604) 775-0207**

**Email: [mail@trustee.bc.ca](mailto:mail@trustee.bc.ca)**