

# Frequently Asked Questions

**Q: How do I apply to become a Private Committee? How much are the legal fees?**

A: You will have to make an application to the Supreme Court of BC to be appointed. You will have to hire a lawyer to gather the evidence and legal documents necessary for the application. The legal fees are not set but generally vary from approximately \$2,500.00 to \$5,000.00. Generally, the legal costs are payable from the adult's estate, but the court always makes this determination during the application.

**Q: Can I apply to be a Private Committee if I live outside of the province?**

A: Yes. However, if you live outside of the province, it may be difficult for you to fulfill some of your duties as Committee. You should be able to demonstrate to the court that the distance will not hinder your ability to meet your committee duties and reporting responsibilities.

**Q: How long does it take to get appointed as a committee?**

A: Once your lawyer sets the hearing date, it can be as early as six to eight weeks later.

**Q: Why is a bond sometimes required?**

A: The court is very conservative in nature and prefers to have security in place. The B.C. Court of Appeal has indicated that a bond should be in place to protect against what is "unforeseeable and unpredictable". If the court believed that the potential committee would abscond with the funds, they would not appoint the applicant in the first place. The court considers whether the adult considered the applicant to be in a position of trust, for example, named as a power of attorney, named executor in the Will, length of marriage or history of joint asset holdings.

**Q: Am I entitled to a fee for my services as committee?**

A: The Public Guardian and Trustee sets a fee when your accounts are passed. A specific formula is used. The committee must wait for the Public Guardian and Trustee's approval before paying him/herself a fee.

**Q: Can a person who has been declared incapable of managing their affairs get married?**

A: Yes, if they are able to understand what a marriage agreement is. A doctor can help determine this capacity. Legal advice is also recommended.

Private Committee Services  
Public Guardian and Trustee  
#700 - 808 West Hastings Street  
Vancouver, BC V6C 3L3



Phone: 604-660-1500  
Fax: 604-660-4456  
Website: [www.trustee.bc.ca](http://www.trustee.bc.ca)

**Q: Can I invest in real estate?**

A: Real estate is not an allowable investment unless it is the principal residence of the incompetent individual. This should be discussed with the Committee Review Officer in charge of the file. In other circumstances, a committee may seek the court's approval by a court order, to invest in real estate on behalf of an incapable adult.

**Q: Can the person for whom I am committee make a Will?**

A: If the person has what is called "testamentary capacity" - the capability to understand what a will is and what its contents mean, they may be able to make a Will. A doctor can help determine this capacity, and legal advice should be sought.

**Q: Can I change the beneficiaries of a policy or do estate planning for the person whose affairs I have been appointed to manage?**

A: No. Committees do not have the authority to makes estate planning decisions on behalf of an incapable adult. Committees cannot take any action that would alter the distribution of the adult's estate. Should the incapable adult have testamentary capacity, then they can make estate-planning decisions directly.

**Q: How is a person declared capable?**

A: First, consult with a doctor to confirm that the person is capable of managing their affairs and/or person. If the doctor determines that the client is in fact capable of making their own decisions, you should contact a lawyer. Your lawyer can make the necessary application to the court to have the adult declared capable.

**Q: What happens if the committee dies?**

A: Another person may apply to replace the committee; otherwise the Public Guardian and Trustee will manage the person's affairs.

**Q: What happens when the person for whom I am committee, dies?**

A: The committee's authority continues until an executor or administrator is appointed. This is outlined in the Patients Property Act, Section 24. Our office will require certain documents in order to release the committee of their duties and close the file.

If you have further questions about Committeship, please refer to the Private Committee Services information pages at [www.trustee.bc.ca](http://www.trustee.bc.ca), or contact the Private Committee Services Department at (604) 660-1500, or call toll-free within BC by dialing 1 (800) 663-7867 and asking to be put through to (604) 660-1500.

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