

FACT SHEET FOR PRIVATE COMMITTEES

Your Role After an Adult's Death

PUBLIC GUARDIAN AND TRUSTEE

While the authority of the Public Guardian and Trustee (PGT) to oversee or investigate a committee's actions ends at the adult's death, section 24 of the *Patients Property Act* provides that a committee's authority continues until the committee receives notice the BC Supreme Court has issued a representation grant for the adult's estate. At that point, the personal representative of the adult's estate takes over.

It can take time for a personal representative to be appointed and in the interim it is important for a committee to understand their responsibilities and limitations. This fact sheet provides guidance on a committee's role after the adult's death and ending the committee's role.

MATTERS REQUIRING IMMEDIATE ATTENTION

- **Determine whether there is a will:** You may already have a copy of the adult's will, or know that no will exists (for example, if the adult never had testamentary capacity). If you are unsure whether the adult made a will or whether the will you have is the last will, you can contact the adult's lawyer or Notary Public and/or order a wills search at the BC Vital Statistics Agency.
- **Facilitate funeral arrangements:** Funeral arrangements are the responsibility of the adult's executor or nearest next of kin under section 5 of the *Cremation, Interment and Funeral Services Act*. Advise this person if you are aware of any prepaid funeral arrangements or expressed wishes the adult made regarding these matters and confirm what funds are available in the estate to pay for the funeral.
- **Secure personal effects and vacant real property:** Ensure the adult's residence and any personal effects of value are secure. If the adult's residence is vacant, check the insurance coverage and, if applicable, end the tenancy agreement.
- **Obtain the death certificate:** Order copies of the death certificate from the funeral home or from the BC Vital Statistics Agency. A death certificate is used to notify certain institutions, such as banks, the Canada Revenue Agency and the PGT. Some institutions require an original or certified true copy of the death certificate; others, including the PGT, accept a photocopy.

ONGOING MANAGEMENT OF THE ESTATE

While you previously made decisions in the adult's best interest, after death your focus shifts to preserving his/her estate for the beneficiaries or intestate successors until a personal representative has been appointed. After death, a committee will typically:

- collect income and other payments to which the adult's estate may be entitled, such as rent, debt



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repayments, refunds and the CPP death benefit;

- pay regular bills (assuming the estate has funds and it is appropriate to continue incurring the expense) and cancel any payments and services that are no longer required (e.g., rent, utilities, health insurance);
- notify financial institutions and agencies of the death, including the PGT;
- pay any filing or probate fees required by the court registry for a representation grant to be issued; and
- provide information about the estate to the personal representative, noting critical dates or significant matters that require attention, such as litigation deadlines, pending property sales, maturing investments and tax filings.

The limits to your authority as committee that existed before death still apply. In particular, as committee you cannot:

- distribute the estate;
- sell, give away, or dispose of assets, unless it is necessary in order to preserve the estate;
- access assets restricted in the court order appointing you committee, except with further court approval. The PGT does not approve requests to access restricted assets after death.

ENDING YOUR COMMITTEESHIP

Once you have received a copy of the representation grant, your authority as committee has ended and you may transfer the assets to the personal representative. You may request that the personal representative (or the beneficiaries or intestate successors, if you are the personal representative) approve any accounts that were not already approved by the PGT if you wish to be compensated for acting as committee, are seeking release of a bond, or are seeking a discharge from the court.

Closing your file with the PGT

After you notify the PGT of the adult's death, the PGT will request a copy of the death certificate. Any committee accounts submitted to the PGT that have not yet been reviewed will be returned to you.

If the order appointing you as committee required you to post a bond, the PGT will consent to its release only after the following additional documentation is received:

- a copy of the representation grant, or a Statutory Declaration from the personal representative that a grant will not be sought; and
- a release from the personal representative (or the beneficiaries or intestate successors, if you are the personal representative) approving or waiving the approval of your accounts.

Approval (or waiver of approval) of committee accounts

The PGT does not review a committee's accounts after it has been notified of the adult's death. The authority to approve the accounts rests with the personal representative or with the adult's beneficiaries or intestate successors if the committee is the personal representative. This commonly happens without further court involvement, although a lawyer often helps the committee prepare the account and waiver documents. If all persons entitled to approve the committee accounts do not approve or waive the accounts,

the committee has the option of seeking court approval of the accounts.

Obtaining a court discharge

To release you from liability for your management of the adult's estate as committee, you may obtain a discharge from the court. This is not required, but you have the right to seek a discharge if you wish. It is usually done where there are concerns that the personal representative or beneficiaries or intestate successors will challenge the committee's management of the estate. Approval (or waiver) of the committee accounts is part of the discharge process.

An alternative to discharge is to request that the personal representative (and/or the beneficiaries or intestate successors) sign a Release confirming they release you from any claims with respect to the committee's management.

OTHER CHALLENGES

Insolvent estate: If it appears the adult's estate may be insolvent, get legal advice. Certain creditor claims take priority over others, and it is important to be aware of this before settling any debts.

Accounting issues: If there is a dispute over the committee's accounts with the personal representative (or beneficiaries or intestate successors where you are the personal representative) that cannot be resolved informally, you may have to go to court to have the accounts reviewed. The court process can be invoked by you or by the other side. Legal representation is usually required.


Transferring assets without a grant: Depending on the size and nature of the adult's estate, a personal representative may request that you transfer the estate without a representation grant being issued by the court. There is a risk of liability to you, and you should consider the size of the estate, your confidence in the validity of the will, and your knowledge of the personal representative and heirs when assessing this risk. You are encouraged to get legal advice.




MORE INFORMATION

This fact sheet is intended as general advice and direction, to help you work effectively and successfully with the PGT. It is not legal advice. If you have questions, please contact the PGT's Private Committee Services department and ask to speak with a Committee Review Officer. You will also find more information in the Private Committee Services pages of the PGT's website, found at www.trustee.bc.ca.



Private Committee Services
Public Guardian and Trustee
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Tel: 604.660.1500
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 PGT Hours of operation
Monday to Friday 8:30 am to 4:30 pm
Toll free calling
Toll free calling is available through Service BC.
After dialing the appropriate number for your
area (see below) and request to be
transferred to the Public Guardian and Trustee.

 Vancouver	604.660.2421
 Victoria	250.387.6121
 Other Areas in BC	1.800.663.7867