

Private committee guide

A guide to being a private committee

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Overview

The following pages have been written for private committees to find out what to do after you are appointed committee. Find out the first steps, discover support options and learn details about the role.

Each situation is different. You will make many decisions. Not everything in this guide will apply to you, but it will point you in the right direction and give you background information and advice on approaching the role of committee.

This private committee guide has the following sections:

- **The private committee role** provides basic information about being a private committee and the role of the PGT. In addition, it includes background and tips on how to get started as a private committee
- **Management of financial and legal affairs** includes information related to investing, accessing restricted assets, buying and selling property and assessing your legal bills

- **Submitting your accounts to the PGT** includes background details on the process to submit accounts to the PGT and also includes details around the optional fees paid to private committees
- **Managing personal affairs as private committee** provides details related to the legislation governing private committees appointed as committee of person. In addition, this section includes details related to health care, residential and facility living arrangements, and guidelines around fostering independence and decision making
- **Ending private committee** details how private committee can end and includes a section on what happens after the adult with a private committee dies

Advice services

Contact your committee review officer if you have questions about your role as committee. They cannot make decisions for you, but they can provide advice, answer questions or suggest resources to help inform your decisions.

The private committee role

A private committee is anyone other than the Public Guardian and Trustee (PGT) who manages the affairs of an adult who is not capable to manage on their own. Private committees are appointed by the court and are governed under the Patients Property Act. Most often, private committees are family members or friends.

There are 2 kinds of private committee:

- 1. Committee of estate:** A committee of estate is the person appointed to take care of an adult's legal and financial affairs when an adult cannot make decisions on their own. For example, an adult may have dementia or a severe mental health issue that stops them from paying their bills or dealing with legal issues. A committee may manage income and expenses, take care of investments, operate the adult's bank accounts or maintain property.
- 2. Committee of person:** A committee of person is the person appointed to make decisions about health care and living arrangements as the adult may not be able to take care of themselves and may be at risk of other people taking advantage of them. A committee of person may make decisions about where the adult should live, health care or who can visit the adult.

It is important to note that unless the court order granting the committee ship states differently, the appointment of a committee means that any power of attorney or representation agreements are no longer in effect.

It is common for someone to serve as both committee of person and committee of estate.

Your primary obligation as committee is to act in the best interest of the adult for whom you are committee. To do this, you must exercise judgment and use your discretion for the benefit of the adult.

The PGT can support you in this role. Contact your committee review officer if you have questions or concerns about a particular decision. They can not make decisions for you, but they can provide advice, answer questions or suggest resources to help inform your decisions.

Common terms used in this guide:

- **Adult:** A person whom the court has declared incapable of managing their affairs or person
- **Committee (pronounced Kaw-mi-TEE):** The person appointed by the court to manage the affairs or person of someone incapable of managing their affairs or person
- **Estate:** All of the assets and liabilities held by a particular person
 - An asset is something that a person owns. It could be real property, jewellery or a stock, including cash
 - A liability is something that a client owes. A debt to be paid like a mortgage or an amount owing on a credit card

Co-committees

Sometimes the court appoints more than one committee to manage an adult's financial affairs or personal health care decisions. Unless the court order says otherwise:

- Co-committees have equal rights and responsibilities to manage the adult's affairs
- Co-committees are jointly responsible and are expected to work together

The role of a private committee

As private committees you have vast powers. You make important decisions that impact the adult's health and financial well-being. Also, you are expected to manage the adult's affairs as though they will recover and resume management of their affairs. This is different from an executor or administrator, whose role is to administer the estate or will of someone who has died.

As committee, you are legally obligated to act in the adult's best interest. This can be challenging and complicated. When making decisions about their personal or financial affairs, you must involve the incapable adult as much as reasonably possible.

The court relies on you to use your judgment, but there are rules and guidelines that determine how you should perform your duties.

Legislation relating to private committee ship

Legislation that provides guidelines for private committees includes the [Patients Property Act](#), the [Public Guardian and Trustee Act](#), and the [Trustee Act](#).

Patients Property Act

This is the provincial law that gives the Supreme Court of British Columbia the authority to appoint committees. The act uses the word "patient" to describe an adult who can no longer manage their affairs. The act sets out the procedure for applying for a committee ship order and defines the committee's authority. It also gives the court the power to restrict your authority as committee. These restrictions are stated in the court order appointing you committee. The act also requires you to maintain proper records and to submit your accounts to the PGT for review and approval.

Public Guardian and Trustee Act

Under this act and the Patients Property Act, the PGT is authorized to:

- Investigate concerns regarding private committees and others who have an impact on the incapable adult
- Review and pass accounts of private committees of estate, and set the fee amount a private committee can take from the adults estate for serving as committee
- Request information about health and residence decisions made by the committee of person

- Authorize access to assets restricted by a court order
- Take measures to protect the adult, or their assets, in urgent cases where there is evidence that the adult's welfare is at risk
- Act as committee when the private committees are no longer able to act

Trustee Act

As committee of estate you are considered a trustee when you invest the adult's money. The Trustee Act outlines the approach you should take in making investment decisions. These guidelines help you to make sure that the adult's estate is protected from unreasonable risk.

Responsibilities and the position of trust

In addition to the specific requirements contained in the Patients Property Act, you are required to act reasonably and prudently. You are expected to act in the best interests of the person for whom you are committee.

Examples of acting reasonably and prudently are:

- Managing the adult's money with a cost-conscious approach
- Getting more than one quote for services or purchases. You should keep copies of the quotes in your records so you have evidence to support your accounts
- Using qualified experts to help you manage the adult's estate. Qualified experts can include property appraisers, accountants, and financial advisors

Committees are considered fiduciaries. A fiduciary is a person who holds a position of trust to advise and act in the best interests of another person. Being a fiduciary does not only relate to financial matters. For example, a lawyer is a fiduciary because the lawyer's clients expect the lawyer

to act in their best interest at all times. As a committee, the court has placed you in a position of trust to act in the best interest of the adult for whom you are committee. Therefore, when making decisions about their affairs, you must place their interests before your own.

The court order

The court order gives you the authority to protect and secure the property of and/or the person for whom you are committee. The order will also state any restrictions on your authority. For example, the court order may say that you cannot sell any of the adult's real property without the permission of the PGT. You must follow the court order.

Your lawyer will give you copies of the court order appointing you as committee. This is your direct authority to act as committee. It remains in effect until:

- Another order says otherwise
- An executor or administrator is appointed after the adult's death

You may need certified or notarial copies of your order from your lawyer or the registry. Some institutions, for example banks, may require a certified copy.

While you are committee, the adult's circumstances may change. The terms of the court order may no longer allow you to act in the adult's best interest. For example, the adult may need an increased level of care. The cost of this care may be more than the adult's estate can afford without access to restricted assets. You may need legal advice to go back to court to change your court order.

Aspects of an adult's life a committee does not have authority over

Committees of estate or person **do not** have the authority to:

- Contract marriage for the adult

- A committee may however continue divorce proceedings
- Vote in elections for the adult
- Draw up a new will
- Change the existing will
- Make estate planning decisions such as:
 - Change beneficiaries on insurance policies or Registered Retirement Savings Plans (RRSPs)
 - Register assets in joint names
 - Place funds in trust
- Act for the adult in criminal proceedings in which the adult is an accused:
 - As committee you may retain a lawyer for the adult
- Make a representation agreement, power of attorney or an advance instructional health care

Confidentiality of the adult

The adult's personal information is protected under the [Freedom of Information and Protection of Privacy Act](#). This includes any information about the adult's finances and medical history. This information is only available to:

- The PGT
- The adult's current committee or co-committee
- The adult
- The executor or administrator of the adult's estate

Fees

The fees the PGT charges for providing private committee services, such as passing accounts, reviewing legal applications or conducting investigations, are set by the B.C. government in the [Public Guardian and Trustee Fees Regulation](#). For more information, see the [Fees Charged in Services to Adults](#) page on our website.

The role of the PGT for private committees

The Public Guardian and Trustee's Private Committee Services (PCS) department helps private committees understand their role and responsibilities. Also, the PCS department monitors and reviews the activities of private committees and investigates concerns as required. We do this by:

- Answering questions and providing information
- Regularly reviewing accounts
- Undertaking investigations when concerns are identified or reported

The PGT is authorized under:

- [The Patients Property Act](#)
- [The Public Guardian and Trustee Act](#)
- [The Trustee Act](#)

Under this authority, the PGT reviews and monitors all private committees in B.C. and is authorized to:

- Investigate concerns regarding private committees or others involved with the adult
- Review and pass accounts submitted regularly by private committees of estate
- Set the amount a private committee can be paid for their services to the adult, if applicable
- Act as committee for adults when the private committees are no longer able to do so

How to report concerns about a private committee

If there are concerns that a private committee is not acting in an adult's best interests, please contact us at PCSAdmin@trustee.bc.ca

The following steps happen when a report is made:

- A letter is sent to the person who reports the concern confirming the receipt
- We may call the person who reports the concern to clarify details

- An assessment occurs and we determine if an investigation is needed or not; either way we follow up with the person who reported the concern

Important note: To conduct our investigation, specific issues raised in the report may need to be discussed with the committee or others. We do not disclose the identity of the reporter. Your identity is protected under section 17(3) of the [Public Guardian and Trustee Act](#). The information reported is protected by the [Freedom of Information and Protection of Privacy Act](#). This is true even if the report does not result in an investigation.

Getting started as a private committee

Once the Public Guardian and Trustee (PGT) receives confirmation of your appointment as a private committee, you are assigned a committee review officer who sends an introductory letter to you about the following:

- What to expect as a private committee
- Details about the reporting requirements to the PGT about your management of the adult's financial, health and personal affairs

It is important to note that unless the court order granting the committee ship states differently, the appointment of a committee means that any power of attorney or representation agreements are no longer in effect.

When first appointed committee, we encourage you to:

- Get familiar with the role of committee
- Set up your records
- Perform initial financial management activities
- Identify any legal or tax issues
- Make arrangements related to healthcare and where the adult lives, if you are committee of person

Get familiar with the role of committee

After the appointment of committee, we encourage you to carefully read:

- This private committee guide to understand your role, the PGT's role and the support available to you
- The court order, because your authority to act in the role as committee begins once it is issued

Some important points about the court order:

- It may be a few weeks before the court order is entered into the court registry and issued to you by your lawyer
- It sets out what you can and cannot do as committee
- It will contain any restrictions or limitations on your authority as committee
- It is the document you'll use to let others know that you are authorized to act on behalf of the adult for whom you are committee. You need copies of the court order to make arrangements, for example, to:
 - Deal with banks or the Land Titles Office
 - Reroute mail
 - Apply for or re-direct Canada Pension, Old Age Security or other pensions
 - Arrange payment with creditors such as Telus, BC Hydro, landlords, or credit companies
 - Cancel or apply for benefits such as Workers' Compensation
- The original court order is kept on file at the courthouse. Your lawyer can provide you with copies. Sometimes you may need a certified copy of your court order

Payment of your legal bill

The court may order that all or part of the committee's application be paid from the adult's estate. It is your responsibility to make sure that the work done and fees charged by your lawyer are reasonable.

The court may also order the PGT to review your legal bills. If so, make sure your lawyer includes copies of all legal bills related to your application when they send a copy of your court order to the PGT.

Bond requirement

Sometimes your court order may require you to post a bond for all or part of the value of the adult's assets. The court sometimes does this to make sure the adult's assets are not at risk.

- The bond is a form of security to protect the adult for whom you are committee
- The cost of the bond is paid from the adult's assets
- The premium is based on the amount of the bond

Restrictions

Your court order may restrict your access to particular assets instead of, or in addition to, a bond. For example, the terms of your court order may state that you need the PGT's permission or a further court order to access a particular asset like a term deposit or a business.

Bank, investment and securities accounts

The adult's bank accounts should be in their name only. The committee should not put their name on the account for management purposes. If you shared a joint account with the adult before you became committee, you can continue to maintain it. For transparency and to simplify record keeping, you could consider:

- Transferring the adult's share of the account to a new account in their name alone
- Removing your name from the account

If you continue to use a jointly-held account, you should use it the same way it was used before you became committee. For example, if the joint account was used only for the adult's benefit, then you should continue to use it that way.

If there is more than one committee and your court order permits it, you can choose whether to have one or more than one committee's signature on the account(s). Make these arrangements with the financial institution.

You may choose to set up a separate account for savings and investment purposes. We suggest you do not use more bank accounts than necessary as it will make your role of committee more complicated

You should keep records of all banking related to managing the adult's affairs. These should include all statements and documentation to back up all transactions.

Setting up your records

Your first account submission to the PGT is due one year after you're appointed committee. This will be confirmed in the introductory letter from the PGT.

It's important to set up your accounts properly from the start. You will want to keep documentation related to the following topics as it will be required when you need to submit your accounts:

- Bank
- Investment and securities statements
- Tax returns
- Will
- Vehicles
- Real property/mortgages

- Personal effects/jewellery
- Business interests
- Credit cards, lines of credit, other loans
- Determine all sources of income
- Gifts, donations

The cost of a bookkeeper or accountant to help you set up and manage record keeping can be paid out of the adult's assets. If you hire someone, make sure the fees you are charged are reasonable.

You will be asked to provide evidence of expenses as part of the account submission process with the PGT. We recommend you:

1. Keep your records as complete, organized and up to date as possible. It's important to maintain documentation to so you have evidence to support all transactions you make as committee
2. Record reasons for any decisions you make on behalf of the adult at the time of making them

Assets that are listed in a will

It is important to note that if you choose to sell or otherwise dispose of any assets that are specific gifts in a will, you must keep records of the amount of the sale proceeds, or fair market value, of the asset. This is because the adult's executor or administrator will need this information to distribute the adult's estate.

Private committee getting started checklist

This checklist is an overview of the tasks you, as a new committee, may need to do. Each situation is different. Not everything in this checklist will apply to you, but it will point you in the right direction.

It is recommended that you record reasons for any decisions you make on behalf of the adult at the time of making them.

Get familiar with the role of committee

- Read this private committee guide
- Read your court order and ask your lawyer if you have any questions
- Make a note of your committee review officer at the PGT. You will receive an introductory letter from them a few weeks after your court order has been filed. You can contact this person if you need advice

Set up your records

- Consider contacting a bookkeeper or accountant for assistance if you feel you need help
- Set up a way to track expenses related to the adult
- Keep copies of all documents related to your committee application
- Establish a filing system to keep track of everything related to the adult's income, expenses, assets and liabilities and your committee ship
- The PGT has an online submission process, so keeping documentation digitally related to any of the following topics will prepare you for when you need to submit your accounts:
 - Bank statements
 - Investment and securities statements
 - Tax returns
 - Will
 - Vehicles
 - Real property/mortgages

- Personal effects/jewellery
- Business interests
- Credit cards, lines of credit, other loans
- Determine all sources of income
- Gifts, donations

Perform initial estate management activities

- Set up a budget for the adult
- Create a plan for how the adult's assets will be managed
- Notify necessary people and organizations of your appointment, providing a copy of the court order as required
- Pay debts
- Ensure all expenses are paid (including medical/insurance premiums)
- Develop a written investment plan/strategy (see Investment considerations and plans)
- Ensure real property, if applicable, is maintained and insurance payments are up to date

Identify any legal or tax issues

- Locate the adult's will and make sure you understand all the instructions related to the adult's assets and wishes
- Identify if the adult is named in a will or trust
- Check that income tax filings are up to date; if tax filing is outstanding, file the income tax
- Other criminal and/or civil proceedings

Make arrangements related to healthcare and residence

- Contact all of the adult's healthcare professionals regarding scheduled visits
- Assess and address any safety concerns regarding the adult's living situation
- Contact any social service agencies that may be providing services to explain you are committee and understand the services the adult was getting
- Review the adult's care plan if applicable
- Attend any meetings with the adult's care team

Management of financial and legal affairs as a private committee

As committee, you will have to make many decisions. Some will be to manage the day-to-day affairs of the adult for whom you are committee. Others will be important decisions that significantly impact the adult's life. Your decisions may also impact beneficiaries of the adult's estate.

Your primary obligation is to act in the best interest of the adult for whom you are committee. To do this, you must exercise judgment and use your discretion for the benefit of the adult.

Act reasonably and prudently

As committee, you are expected to act reasonably and prudently. Examples of acting reasonably and prudently are:

- Managing the adult's money with a cost-conscious approach
- Getting more than one quote for services or purchases. You should keep copies of the quotes in your records
- Using qualified experts to help you manage the adult's estate. Qualified experts can include property appraisers, accountants, and financial advisors

If you are the spouse

If you are committee for your spouse, you do not have to separate what belongs to each of you. You can continue to live as you have done. For example, you can maintain the same living and financial arrangements for your family home as long it makes financial sense.

The adult's home

As committee of estate, you may have to decide to sell or keep real property owned by the adult for whom you are committee. For example, the

adult may move into a care facility, so you have to consider whether to maintain the adult's home, rent or sell it.

Consider the following before deciding to sell real property owned by the adult:

- The adult's wishes
- The views of family members
- If the adult is in a hospital/care home, is their care team's opinion that they will likely move back home?
- Whether the home should be rented and the tax implications of renting the property
- If family members need the home to live in. Legitimate claimants are usually limited to the spouse and dependent children
- If the adult needs the cash from the sale to meet their expenses
- If the adult can afford the taxes and other costs of maintaining the home
- If the home is bequeathed to someone in the adult's will

If you decide to rent:

If you decide to rent the home, you should rent it at fair market value. This means that you must charge a similar rent to other similar rental properties in the same neighbourhood. If you want to charge less than market value, you should discuss this with your committee review officer.

You should have a formal rental agreement with the tenant. You may have to provide the tenancy agreement with your account review. You can find tenancy agreements for B.C. at the [B.C. Residential Tenancy](#) office.

If you decide to sell:

Selling the adult's home requires careful consideration and process. Before proceeding to sell, read the section of this guide, **Buying and selling real property as private committee**, on page 23 and consult your committee review officer.

Vehicles

Vehicles decrease in value quickly. Storage and insurance can be costly. If the adult for whom you are committee cannot drive, you should consider:

- Whether it's in the adult's best interest to sell or keep the vehicle
- If expenses for the vehicle are reasonable when it's being used for the adult's benefit, or their spouse or children

Personal effects and furnishings

Depending on the adult's financial and personal circumstances, you may need to sell or store personal items. If specific items are identified in a will you should discuss options with the adult and their family. If you sell an item gifted in the adult's will, you could be challenged by the beneficiary who is entitled to this asset. You should also consider whether the proceeds from selling the item are needed for the adult's ongoing expenses.

Jewellery, art and other items may have been listed at a specific value in your application for committee. If you choose to sell these, you need to establish the current market value. You should have any items valued at more than \$2,000.00, appraised by a qualified appraiser before you sell them.

You are expected to keep personal effects that have sentimental value to the adult. Therefore, you should only consider selling these items if it is in the adult's best interest.

Joint bank accounts

If you had a joint account with the adult before your committee, you can continue to use the account. You must use the account in the way it has always been used. For example, if the account was used for estate planning purposes, continue to use it for estate planning purposes. If the account was used solely for the adult's benefit, continue to use it that way.

The adult may have a pre-existing joint account with another person. It is your responsibility to decide

whether to maintain the joint account. For example, if the joint account holder is acting inappropriately, it is your responsibility to determine whether to keep this arrangement.

Creating a joint account to ease managing the adult's funds is against the rules set out in the [Patients Property Act](#) and common law. Joint accounts carry a right of survivorship. This means if you change the adult's account registration to include yourself, the entire account will go to you when the adult dies. This is a conflict of interest. As committee, you must not put yourself in a position to benefit from the adult's assets. It is inappropriate to change bank accounts to joint ownership with yourself and the adult for whom you are committee, if they were not already set up that way.

Make sure your financial institution understands your needs as committee. You can have the adult's account available to you as a signatory, but not as a joint owner.

Income

Deposit all the adult's income to an account in their name as soon as it is received. Regular sources of income, such as pension or disability income, can be direct-deposited into the adult's account. This will help you keep accurate records and to make sure no payments are lost.

Expenses

As committee, you will have to pay all reasonable expenses from the adult's account. These are varied and can include:

- Care home or hospital costs
- Medical Services Plan premiums
- Food
- Utilities
- Bus passes and transportation

To decide if an expense is reasonable, ask yourself if the expense is necessary and in the adult's best interest. Consider if the cost of an item or service is within the normal range. Your role is to manage the adult's estate to maintain or enhance the adult's quality of life. Your decisions must also reflect the adult's wishes as much as possible.

You can reimburse yourself for reasonable out-of-pocket expenses you incur on the adult's behalf. For example, you can reimburse yourself for gas, car mileage, or record-keeping supplies.

If the adult lives in a care home

Care homes typically have a "comfort account", a petty cash account they can draw on for personal items. Maintain this comfort account at a level that provides the adult with everything they need and can afford. The care facility managers can recommend an amount based on the adult's needs. You are responsible for monitoring this fund.

Caregiving services

When arranging caregiving services, you will consider many options. For example, you must consider the advantages and disadvantages of hiring an agency or an individual and assess the cost of these services and what the adult can afford. You might also decide to provide some caregiving duties yourself.

If you are setting fees for caregiving services you provide to the adult, you must provide the PGT with evidence of how you determined your fee and get authorization from your committee review officer. You must also keep clear records and documentation of the following:

- Hours of service
- Description of services provided

Pensions and benefits

You must apply on the adult's behalf for any pensions or other benefits they are entitled to. You can claim to be paid for arrears if the adult has not applied for benefits to that they were entitled. You can set up direct deposit for pension and benefit payments to simplify your record keeping and to make sure no payments are missed.

Income tax

You are responsible for filing income tax returns for the adult for whom you are committee. This

includes filing overdue returns. You can let the Canada Revenue Agency know about the individual's incapacity. The adult may qualify for partial or full relief from penalties under the CRA's fairness and taxpayer relief program.

Your court order entitles you to ask for the adult's prior filings and T-slips. This can help you to make sure you have accounted for all of the adult's sources of income. You can hire a qualified professional to help prepare the adult's income tax returns. The cost of professional help is payable from the adult's account.

Sometimes, the adult for whom you are committee has no taxable income. It may still be in the adult's best interest to file an income tax return.

Filing returns allows you to:

- Claim refundable tax credits, such as the working income tax benefit and the B.C. sales tax credit
- Apply for federal and provincial tax credits
- Automatically renew the Guaranteed Income Supplement available to low-income seniors across Canada
- Qualify for reduced per diem rates at government-funded care facilities

Business affairs

Sometimes a business is part of the adult's estate. Business management is complicated. You may use your discretion and choose to sell the business. You may also decide to continue operating the business and hire qualified help for the things you aren't able to do. It's a good idea to hire a qualified business accountant to help with the business records, financial statements and tax preparation. You may also consider getting legal advice concerning the adult's role in the company, for example, if the adult is a company director.

If you decide to sell the business, consult a lawyer or accountant with experience in sales of similar business types.

Interest in a trust

If the adult whose affairs you manage has a trust, you need to find out the adult's interest in the trust. Many trusts are discretionary, concerning interest and capital. This means that the trustee decides when and how much funds the adult receives, and whether the funds are paid from interest or capital.

Get a copy of the trust deed so that you understand the nature of the trust concerning the adult. It is your responsibility to make sure the trustee does their job to handle the benefits to which the adult is entitled.

You will have to submit financial statements related to the adult's interest in the trust with your committee accounts. As committee, you are obligated to review the trustee accounts regularly to protect the interest of the adult for whom you are committee.

Discovering additional assets

If at any time during your committee ship you discover additional assets worth more than \$25,000.00, section 10 of the [Patients Property Act](#) requires you to report them to your committee review officer within 30 days of discovery. The PGT may ask for additional security for the newly discovered assets. This depends on:

- The value of the assets
- Whether your court order has placed restrictions on assets
- If there is a bond requirement in your court order

Legal affairs

As committee, you have the authority to bring and defend lawsuits on behalf of the adult for whom you are committee. This includes any action taken under acts such as the [Wills, Estates and Succession Act](#) (WESA) or the [Family Law Act](#). Your authority also includes advancing any personal injury claims on behalf of the adult. For example, if the adult was being sued for financial support in a divorce case, you would continue with the lawsuit on the adult's behalf.

You must act in the adult's best interest, so it's important not to get involved in unnecessary lawsuits.

Other legal roles could include the following:

- **Acting as litigation guardian:** If you act as litigation guardian on behalf of the adult, you must retain the services of a lawyer. A litigation guardian is someone who has the authority to instruct legal counsel throughout a litigation
- **Acting as executor:** If the adult has been named executor in someone's will, you can act as executor on the adult's behalf

You may find out that the adult for whom you are committee has been taken advantage of. For example, the adult may have sold something for less than its total value to someone who knew the adult was incapable. This transaction is not legal. If you are concerned that this has happened, get legal advice to find out what actions you can take that are in the adult's best interest.

Helping dependant family members

As committee, you are acting as the adult would if they were capable. This means you should also consider the interests of the adult's legally dependant family members. Examples of legally dependant family members include:

- A spouse or common law partner
- Children who are under 19; or over 19 but can't take care of themselves because of illness, disability, or another reason

If the adult has been supporting their spouse or another family member, you can continue to pay the costs of maintaining the dependant family member if:

- The adult's estate can afford the expense
- The dependant person has insufficient income to maintain their standard of living

Contact the PGT for approval before you begin to cover expenses for the adult's family members. This is especially important if the payments could be perceived as a conflict of interest.

For transparency, you may also want to get a court order to approve such payments.

Maintenance for a spouse

If you are your spouse's committee, let the PGT know if you intend to continue to use your spouse's funds for your support. This statement should also be contained in your application to be committee. You can have a budget approved so that you can pay for your expenses without the need for a detailed accounting.

Gifts to family members

If the adult has sufficient funds, the cost of small gifts that are part of the family traditions, such as birthday gifts, can be paid from the adult's estate.

You should consult your lawyer to arrange court approval before you give a substantial gift or charitable donation on the adult's behalf. If, when your accounts are reviewed, the level of gift is found to be unreasonable, you may have to reimburse the adult personally.

Conflict of interest

A conflict of interest is a situation in which your personal interests compete with the interest of the adult for whom you are committee.

As committee you have a fiduciary responsibility. This means that you must act in the best interest of the adult whose affairs you are managing. You must not benefit personally from the adult's estate.

Contact your committee review officer if you feel that an action you are taking may be perceived as a conflict of interest.

For example, if you are committee for your brother and contesting your mother's will, your claim on the estate conflicts with your brother's, in the eyes of the law. In a situation like this, you need to get approval from the PGT before you take action.

Conflict of interest can also arise if you take an action where you may benefit from a financial transaction that you take on the adult's behalf. For

example, if you want to buy the home of the person for whom you are committee, you would need to get approval from the PGT before making the transaction.

Hiring professional help

You are responsible for the financial affairs of the adult for whom you are committee. Some aspects of managing these affairs may be outside of your expertise. In this case, you can hire qualified professionals and pay for their fees from the adult's assets.

For example, you can hire a qualified accountant to help you with bookkeeping, preparing accounts and to prepare the adult's tax returns. Or, you can hire a qualified investment manager to help manage the adult's investments.

When you hire professional services, you must make sure that the rates you are being charged are reasonable for the services you receive. If the PGT finds that the cost of services is not reasonable or the service is one that you could reasonably be expected to provide, you may have to pay back the adult for the cost.

Writing a will

The adult for whom you are committee may want to make a will. The level of capacity needed to write a will is called "testamentary capacity." This is different from the level of capacity needed under the [Patients Property Act](#) to declare someone incapable of managing their affairs. You can arrange for the adult to speak with a lawyer to determine if the adult has testamentary capacity. The lawyer may ask for a medical opinion. The desire to make a will must come from the adult, not the committee.

Marriage

If the adult wants to get married, the adult must be capable of entering into a marriage contract. If you are concerned about the adult's ability to understand a marriage agreement, get advice from the adult's doctor and lawyer. The doctor will

assess whether the adult understands the meaning of a marriage agreement. The lawyer will give you legal advice. You must use your discretion to decide if you need to take these steps before the adult marries.

Managing investments as a private committee

As a private committee of estate, you manage the financial affairs for an adult who is no longer capable to do so. You need to keep a reasonable amount of money in the adult's bank account to care for routine needs. If additional funds are available, you should consider developing an investment plan. Given the level of care that is needed to manage investments, you should seek advice from an investment professional.

Investment considerations

A reasonable and proper investment plan considers the following:

- Prior investment history and patterns of the adult
- Adult's circumstances, interest, and wishes
- Adult's current and future needs

The prudent investor

In B.C., private committees of estate are considered trustees. Therefore, your investment decisions must meet the standard of care set out in the Trustee Act which is the prudent investor requirement. This means you must use a prudent investor's care, skill, diligence and judgment.

As a prudent investor, you must:

- Take an approach that balances risk and returns
- Develop a written investment strategy and plan
- Make necessary investments to protect capital and provide income for the adult whose affairs you manage

- Develop risk and return objectives that are suitable and reasonable, based on the size of the portfolio and the circumstances of the adult
- Make sure that the investments are diversified in class and type
- Make sure that the costs and fees charged for investment purposes are reasonable and appropriate

Investment risks

There are many financial risks when making investment decisions. This is especially true when you are investing for someone else. As private committee of estate you can be held personally responsible for investment losses incurred by the adult's estate. However, the Trustee Act states that you cannot be held responsible for an investment loss if the decision that led to the loss is based on an investment plan of a prudent investor.

Therefore, you should make every effort to maintain the overall portfolio risk at a reasonable level when developing an investment plan for the adult for whom you are committee.

For example, you need to keep money in the adult's bank account to take care of the adult's day-to-day needs. Any amount over that should be invested. The investments you make should be in the best interest of the adult. This requires an investment strategy that limits ups and downs in market values to provide a steady income for the adult's financial needs. As a prudent investor, you only expose the adult's estate to the level of risk required to meet the adult's financial needs.

You can avoid undue risk by:

- Developing your investment plan in writing
- Seeking qualified professional assistance
- Investing conservatively
- Diversifying when making investments
- Regularly monitoring the portfolio's investment performance

Choosing professional assistance

Managing investments as a private committee requires a high standard of care. Your legal obligation is to manage the adult's affairs as a prudent investor. You are not expected to have the financial expertise you need to achieve this. The Trustee Act allows you to delegate your authority to manage the adult's investments to an agent. You can do so once you have determined your investment objectives.

You must choose an agent carefully and you must:

- Establish the terms and limits of the authority you delegate
- Familiarize the agent with the investment objectives
- Regularly monitor the performance of the agent

When choosing an agent, make sure they are:

- Knowledgeable
- Reputable
- Dependable

You must also make sure they understand the legal requirements of trustees to act as prudent investors. The fees they charge must be reasonable and competitive. Some investment products have hidden management fees such as load or administration fees. Be sure to ask for an explanation of all fees and commissions.

Personal loans

Making a personal loan to yourself, family members, or others is not an appropriate investment and is a direct conflict of interest. If you wish to make a personal loan, the loan must be approved in advance:

- As part of the initial court order, or
- By way of a court order specifically authorizing the loan

How to develop an investment plan

Your investment decisions are your choice. However, it's important to remember that you are acting on behalf of the adult for whom you are committee. The adult's wishes and past investment patterns should be taken into account. We strongly advise that you seek qualified professional advice to help you create an investment plan.

What follows is the steps to create an investment plan:

Understand the adult's financial goals

As a prudent investor, you'll base your plan on the adult's financial needs, objectives and goals. To get the understanding you need, you can take the following steps:

- 1. Create a net worth statement:** As private committee, you'll have a good understanding of the adult's assets and debts. Once you have assessed the value of the adult's assets and any debts, you can create a net worth statement. A net worth statement shows the dollar value of what the adult owns and owes. This will help you identify what assets should be invested
- 2. Prepare a budget:** A budget that outlines the adult's current income and expenses is good practice. It gives you a financial road map to follow while you are committee of estate. A budget helps you determine if there is:
 - A positive cash flow (income is more than expenses), or
 - A negative cash flow (expenses are more than income)
 - If the cash flow is negative, you need to use assets to meet the day-to-day needs of the adult. You may also need to consider the long-term impact of a negative cash flow. Over time, funds could run out. You should make a contingency plan in case this happens. For example, you could investigate what government benefits, subsidies, or other financial assistance the adult may be eligible to receive

3. Anticipate and identify high future costs: It's important to think about and prepare for costs that could come up in the future. These costs could include travel to visit family, buying a specialized vehicle or renovating the home. They could also have increased medical care and caregiver or companion costs. Some of these costs may or may not be covered by the adult's income.

4. Consider capital expenditures: Capital expenditures are expenses that generate an asset. For example, you may have to sell assets to prepare for other large costs that may come up in the future, such as purchasing a house or specialized vehicle. To make a capital expenditure, you must consider other factors, such as tax implications. As private committee, you must also consider the adult's:

- Life expectancy
- Risk tolerance
- Past investment preferences

Make an investment plan

- **Determine investment income:** Based on the objectives and goals you identified, you now know the income you need to meet them
- **Considerations:** You need to consider many factors to make an investment plan that meets the adult's income needs and financial goals, including:
 - Current economic conditions
 - Current market conditions
 - Diversification of the investments
 - Liquidity of the investments, for example, how easily can the investments be converted into cash
 - Investment history of the adult
 - The investment strategy

As a prudent investor, we strongly recommend that you deposit funds only with banks, credit unions and financial institutions that are members of the Canada Deposit Insurance Corporation or the Credit Union Deposit Insurance Corporation.

Deposits in member institutions are automatically insured against loss up to certain limits. The insurance limit for CDIC insured banks is \$100,000.00. There is no limit for CUDIC-insured B.C. credit unions.

Investing in precious metals, art and antiques is not considered a prudent investment decision for most committees. Investments such as these are speculative. They may be difficult to sell in a timely manner.

An adult may already own gold, art or antiques and you don't have to sell these assets. As a prudent investor, you'll develop an investment strategy that balances the risk of managing these assets with the needs of the adult.

Conflict of interest

When appointed committee of estate by the court, you are placed in a position of trust to manage the affairs of someone who is not capable. You cannot benefit in any way from the funds that you manage for the adult. You are accountable for the decisions you make. You must act in the adult's best interest and make every effort to reduce the risk of investment losses to the adult's estate.

Your committee review officer will examine the investment plan and investments to make sure that you are fulfilling the prudent investor requirement.

If you invested funds in a way that does not appear prudent, you could be personally responsible for any losses incurred by the adult's estate. The PGT will not be able to pass your accounts if the investment decisions you make are found to be inappropriate. If the accounts are not passed, it can result in losing your committee ship and you risk legal action from the adult's new committee or the executor or beneficiaries of the adult's estate.

Resources

The B.C. Securities Commission has resources to help investors. You can contact the British Columbia Securities Commission by calling 1-800-373-6393, or email at inquiries@bcsc.bc.ca.

Managing joint assets as a private committee

As committee of estate, you are required to manage the financial affairs of the adult for whom you are committee. Sometimes the adult owns assets jointly with others. Managing joint assets can be complicated. When this is the case, you must manage the joint assets in the best interest of the adult. You are generally not permitted to establish joint assets on behalf of the adult. Doing this may change the adult's estate plan for how assets will be distributed after the adult dies.

Joint ownership defined

Joint ownership is when two or more people own an asset. Examples of assets that may be owned jointly include:

- A vehicle
- A bank account
- Real property

In B.C. there are 2 kinds of joint ownership:

- 1. Joint tenancy:** The joint owners hold an equal interest in the asset. When one owner dies, the asset passes directly to the surviving owner once the appropriate paperwork is done. This is called the right of survivorship. In most cases, joint tenancy is arranged so that when a client's spouse dies, the asset can quickly and easily pass directly to the surviving spouse.
- 2. Tenancy in common:** Each owner has a separate interest in the asset. This separate interest can be equal or unequal. When one owner dies, that owner's share forms part of their estate and does not pass automatically to the surviving owner or owners.

Beneficial ownership and interest

Sometimes, the original owner of an asset names a joint owner for the asset so the joint owner can help take care of the asset. The original owner does not

intend for the joint owner to automatically benefit from the asset after they die. In this case, the original owner is the beneficial owner.

It's important to know what the original owner intended when they set up the joint ownership. For example, an adult may add their child as a joint owner of an asset so that the child can help administer it. The adult may not intend for the child to have any financial or other interest from the joint ownership. In this case, the child is a joint owner in name only. The adult is the beneficial owner. This means the adult is the true owner of 100% of the asset.

Managing assets in joint tenancy

When the adult for whom you are committee owns an asset in joint tenancy, you must consider the following:

- Why is the asset in joint tenancy
- How the asset was used and managed when the adult was capable
- Who contributed financially to the asset
- The perspective of the other joint owners

It is assumed that the adult established joint ownership while the adult was capable. If you feel that the ownership arrangement was made against their will, you may have to challenge the joint ownership. You can apply through the court to have the asset returned to the sole ownership of the adult. You should seek legal advice to help you decide if you should do this.

It's always important to remember that your role is to act in the best interest of the adult for whom you are committee.

Three common reasons for joint tenancy

1. Joint tenancy for ease of administration

An adult may set up joint ownership to help the adult administer the asset. In this case, the adult may not intend for the asset to pass to the joint owner(s) when the adult dies. For example, an adult

may name a child as a joint owner so that the child can manage day-to-day affairs, such as banking or property maintenance. In cases like these, the PGT considers the adult the beneficial owner of 100% of the asset.

Now that you are committee, joint ownership isn't needed any longer. Sole asset ownership should return to the adult as soon as possible. You may need the other owner's consent or a court order to return the asset to the adult for whom you are committee. If this hasn't happened by the time your first committee accounts are due:

- Disclose the title in its current state
- Report 100% of the value and income of the asset as belonging to the adult
- Include an explanation of when the joint owner's name will be removed

2. Shared ownership and use

An adult may jointly own an asset where the owners are on title and contribute to and use the asset. If any joint owners die, their share is divided among the remaining owners. In this case, the PGT considers the adult's interest to be what is shown on the title of the asset. For example, if there are four joint owners, the adult has one quarter ownership.

- **Management:** As committee, you may choose to manage the asset as the adult did while the adult was capable. If this is no longer in the adult's best interest, you can discuss alternative options with the joint owner and your committee review officer
- **Reporting:** When you submit your committee accounts to the PGT, report the value of the asset and its income in proportion to the adult's beneficial interest

3. Estate planning

Sometimes the adult wants to make a plan for their assets after they die. For example, after their death, the adult may want title of their home to transfer to a particular person. In this instance, the adult may add that person as a joint owner of their home. In this case, the adult's beneficial interest in the asset is 100%.

It's important to review the history of the asset to find out if it is appropriate to continue to manage the asset as it was set up. It's important to remember that estate plans cannot be changed except to provide for the adult's personal or financial needs. If the adult's circumstances change or joint ownership puts the asset at risk, discuss options with the joint owner(s) and your committee review officer.

Other considerations

Whether an asset is registered as joint tenancy or tenancy in common, your role is to manage the asset in the adult's best interest.

Communication and coordination with joint owners

You must work with joint owners to determine the following:

- How income will be divided and reported for tax purposes
- How expenses will be paid or divided between owners, such as property insurance and taxes for real property
- Future plans for the asset, for example selling the asset or managing it differently

Joint account usage

Unless you are the spouse, do not use the joint account for your personal use.

Selling jointly-owned real property

When jointly-owned real property is sold, the proceeds may be retained as a jointly-owned asset.

Selling or transferring an asset listed in the adult's will

A will is a legal document left by someone who died. It lets the court know what to do with that person's estate. If you sell an asset listed in the adult's will, keep all documentation showing the amount received.

If you transfer an asset listed in the adult's will, keep all documentation showing the fair market value. This will provide a clear record of how you determined market value. It will also allow the adult's executor to comply with section 48 of the [Wills, Estates and Succession Act](#) (WESA) after the adult dies.

Fees payable and earned when submitting committee accounts to the PGT

When you submit your committee accounts to us, the fees payable and the fee you can request to be paid are calculated based on the PGT's assessment of the adult's beneficial interest in the joint asset(s).

Approval of change in ownership

To have a change in ownership approved, you may have to apply to the court under section 28 of the [Patients Property Act](#). The PGT must be served with notice of your application. Once we receive a copy of the application, we will review it and make comments for the court to consider.

Accessing restricted assets as a private committee

Access to certain assets may be limited by restrictions in the court order that appointed you as committee of estate. Depending on the restrictions, you may need to get the approval of the Public Guardian and Trustee (PGT), or a court order to access these assets in any way.

Accessing an asset means selling, transferring ownership, or using it to borrow against (for example, a mortgage).

Accessing restricted assets

You must demonstrate that accessing a restricted asset is in the best interest of the adult for whom you are committee.

The maximum amount of funds the PGT will approve is limited to the adult's current needs only. For example, if the request is to sell an asset to free up funds to pay for the adult's daily life, the PGT may approve the sale, however it does not mean that all funds from the sale will be available, but rather only the funds required for the current need.

The PGT will not approve a request that:

- Is a large gift, or transfer of funds that appears to be an early distribution of the adult's estate
- Is not needed to meet the adult's financial or legal obligations, or their health and safety needs
- Puts you in a conflict of interest with the adult, such as a gift or loan to yourself or a related party
- Contradicts a term of the current court order that appoints the private committee
- Was denied in the past with no new information or change in circumstance
- Is for the purchase of real property for investment purposes
- Is a loan to someone else for investment purposes

The PGT may not approve:

- Moving an asset to a location or institution outside B.C.

The PGT will consider approval of the following when it might be in the adult's best interest:

- Cover a shortfall in the adult's income to meet their needs
- Fund an important, one-time expense for the adult, such as medical equipment
- Repay the adult's debts
- Transfer a restricted account to a new financial institution
- Buy real property for the adult's use
- Buy a non-financial asset to serve the needs of the adult
- Get a loan for the adult to meet daily expenses or a specific need

If the asset is a gift in the adult's will

Special consideration must be made if you want to sell or transfer an asset that is listed in the adult's will. A will is a legal document left by someone who died. It lets the court know what to do with that person's estate.

All records about the sale or transfer of the asset must be kept. This makes sure that when the adult dies, the executor of the adult's estate will have the documentation needed to comply with section 48 of the [Wills, Estates and Succession Act](#) (WESA). This documentation should show the following:

- Amount of proceeds and fair market value received if the asset is sold, or
- Fair market value of the asset if it is transferred

The request process

1. Send your request by email, fax or letter to the PGT. Attention "Private Committee Services. (see below for what to include in the request)
2. Your committee review officer reviews the request within 10 business days and may follow up by phone or email with a request for more information
3. A decision is made
 - a. If approved, a committee review officer will provide you with a letter confirming you have access to the asset(s)
 - b. If declined, a committee review officer will communicate the decision to you. You have the option to apply for a court order to approve it under section 28 of the [Patients Property Act](#). The PGT must be served with notice of your application

What to include in all requests to access restricted assets

1. An explanation of the reasons for your request and why it is in the adult's best interest
2. Details of the restricted asset you are requesting access to
3. The amount you are asking for
4. A statement showing the current balance in the adult's restricted account

5. Contact information for the financial institution holding the restricted asset

The below sections describe additional details needed in the requests, depending on the reason for your request.

- Reason for the request: additional funds are required to fund an ongoing shortfall in the adult's income. The request needs to include:
 - Long-term plan to meet the adult's needs
 - The amount of funds you need to finance the shortfall, including day-to-day expenses and allowance for small unforeseen payments and cost increases
 - Up-to-date information about the value of the adult's income and expenses
 - Supporting documentation related to the adult's ongoing expenses
- Reason for the request: additional funds are required to fund an important one-time expense. The request needs to include:
 - An itemized estimate for the total expense, including where applicable a professional estimate to support the amount you're asking for. For example, submit a contractor estimate for substantial renovations to real property
- Reason for the request: additional funds are required to fund repaying a debt. The request needs to include:
 - Documentation that confirms that the debt:
 - Is an obligation of the adult
 - Shows the current balance owed
 - Has financial statements for all of the unrestricted accounts
- Reason for the request: transferring a restricted account to another financial institution. The request needs to include:
 - Confirmation that the ownership and any named beneficiaries of the account remain unchanged
 - Confirmation that the new account is covered by equivalent security to the current account or provide information to support that your request is in the adult's best interest.

Equivalent security can be:

- An irrevocable letter of direction, signed by you and the new financial institution. This letter confirms that your access to the new account will be restricted (a committee review officer will provide you with a template if you need one)
- Reason for the request: purchasing a non-financial asset such as a vehicle, medical equipment or household effects. The request needs to include:
 - Confirmation that the asset will be registered in the adult's name
- Reason for the request: obtaining a mortgage or home equity loan using restricted real property as security. The request needs to include:
 - Budget that shows the adult will be able to afford the loan payments
 - Long-term plan for managing the payments

Buying and selling real property as a private committee

Real property is land and anything that is permanently attached to it. Real property can be residential, commercial, agricultural or industrial. An example of real property is a house, condominium, or farm.

Transactions on real property owned by the adult for whom you are committee require consideration. Depending on any court order restrictions on the property, there are different Public Guardian and Trustee (PGT) review processes to follow that are explained below.

Buying real property

The purchase of real property as an investment is not considered prudent. If you think the purchase of real property is in the adult's best interest, prepare a proposal and send it to your committee review

officer. Make sure the proposal explains why you think the purchase is in the adult's best interest.

A court application for approval may be needed if you want to purchase real property with restricted assets.

Selling real property

As committee of estate, you may have to decide to sell or keep real property owned by the adult for whom you are committee. For example, the adult may move into a care facility, so you have to consider whether to maintain the adult's home, rent or sell it.

Consider the following before deciding to sell real property owned by the adult:

- The adult's wishes
- The views of family members
- If the adult is in a hospital/care home, is their care team's opinion that they will likely move back home?
- Whether the home should be rented and the tax implications of renting the property
- If family members need the home to live in. Legitimate claimants are usually limited to the spouse and dependent children
- If the adult needs the cash from the sale to meet their expenses
- If the adult can afford the taxes and other costs of maintaining the home
- If the home is being left to someone in the adult's will (see below)

Involvement of the PGT when selling real property

The PGT reviews the sale of real property owned by the adult for whom you are trustee. If there are court order restrictions on the real property, the review is done before the sale is complete. If there are no restrictions, then we review the transaction during the review of your accounts.

The process for selling real property

Step 1: Listing real property for sale

- **Check if the property is mentioned in the adult's will:** If the real property you want to sell is gifted in the adult's will, you must follow the requirements in section 48 of the [Wills, Estates and Succession Act](#) (WESA). To follow these requirements, you must keep all documentation that shows:
 - The amount of proceeds received from the sale or
 - The fair market value of the property
- **Review your court order for restrictions:** It is common for the sale of real property to be restricted by the court order that appointed you as committee of estate. These restrictions could state that you cannot sell, borrow against (for example, a mortgage) or transfer the property title. If this is the case, you will need to:
 - Get the PGT to approve the sale or
 - Get a court order to approve the sale
 - Include a vendor clause such as "subject to the approval of the Public Guardian and Trustee," or "subject to a court order approving the sale"
- **Seek professional help:** Selling real property can be complicated and time-consuming. We strongly advise you to use the services of:
 - A licensed realtor, and
 - A lawyer experienced in real estate transactions or notary publicReasonable costs for these services are payable from the proceeds of the sale
- **Get an independent appraisal:** It's important to get an appraisal from a designated, independent appraiser. A realtor is not considered an independent appraiser. An appraisal will help you make an informed decision while you consider offers and negotiate the sale of the property. Also, the PGT will use the appraisal when we review the sale

Step 2: Accepting a sale offer

The process for accepting an offer differs, depending on whether the court order appointing you committee has restrictions on the real property owned by the adult.

- **If the court order does not restrict the real property:** You can accept any reasonable offer to sell the property. A reasonable offer is an offer that is:
 - Above, at or near the appraised value of the property
 - Made to someone who is not a family member or yourselfSpeak to your committee review officer if you want to sell the property for less than the appraised value or to someone known to the adult, such as a family member or yourself.
- **If the court restricts the real property, you must:**
 - Get the approval of the PGT or
 - A court order allowing the sale of the property

How to submit a request for PGT approval

Send your request by email, fax or letter to the PGT, attention of Private Committee Services. The request must include:

- A copy of the Contract of Purchase and Sale that is subject to PGT approval
- An appraisal from an independent appraiser dated less than 6 months ago
- A brief explanation about why you are selling the property, highlighting why the sale is in the adult's best interests
- Contact information for your realtor, lawyer or notary public

The PGT's review

A committee review officer will review all of the information you send in and may ask for more information. A minimum of 5 working days is needed to review and respond, and failure to provide all of the necessary documents will delay completing the review process.

The PGT may not approve the sale of real property when the offer under consideration is/has:

- For less than the appraised value
- To someone who is known to the committee or adult
- Made without a licensed realtor
- Complex legal or ownership issues
- Concerns the sale may not be in the adult's best interests

If your request is not approved, you can apply for a court order to approve it under section 28 of the [Patients Property Act](#). The PGT must be served with notice of your application. When we are served, we will either take no position, or we will oppose your application if there are concerns.

Security requirements

The PGT requires security to cover the net sale proceeds when restricted real property is sold. The court order appointing you committee may already contain such a restriction. For example, if the net sale proceeds are deposited into an investment account, the PGT will require restrictions on that account. PGT or court approval will be required for access to the restricted account.

If the net sale proceeds are restricted by court order: Before the PGT approves the sale, we will require you to confirm that the financial institution receiving the proceeds has been:

- Served with a copy of the court order, and
- Advised the proceeds are restricted

If the net sale proceeds are not restricted by court order: Before the PGT approves the sale, we will require you and the financial institution receiving the proceeds to sign an Irrevocable Letter of Direction. This letter confirms that your access to the new account will be restricted (a committee review officer will provide you with a template if you need one).

Title transfer

The PGT will send a letter addressed to the Land Title Survey Authority to the lawyer involved in the transaction, giving consent for the title to be transferred when the following are received:

- The Form A Transfer, and
- If applicable, the Irrevocable Letter of Direction, or
- Confirmation the financial institution receiving the sale proceeds has been served with your court order

Documentation about the sale, including the Vendor's Statement of Adjustments, should be kept and included when you submit your accounts for review.

How to assess legal bills as a private committee

Once appointed as committee of estate, you have many duties and responsibilities. One of your first responsibilities is to pay the lawyer who helped you get appointed. You may also have to retain a lawyer to represent the adult for whom you are acting as committee.

If your application was contested

A contested application is one where another party opposes or disputes it. If your application was contested, the adult's estate might be required to pay the legal fees of the contesting parties. The court order appointing you as committee will state any requirements for legal fee payments.

Before you pay for your legal services

It's important to review your legal bills to make sure that the charges are reasonable and appropriate. You should also confirm whether the adult's estate is required to pay.

Guidelines to help you assess your legal fees

You most likely signed a written agreement when you first hired your lawyer. This agreement is called a retainer. Your retainer should define:

- The work to be done by your lawyer
- Services to be provided by other lawyers or legal assistants in the firm
- An estimated cost of legal fees, disbursements and applicable taxes

Before making any payment, review your lawyer's bill to make sure that:

- The details of your bill correspond to what is in your retainer agreement, and
- The amounts charged are reasonable (your legal costs will be higher if your committee's role was contested)

Concerns about your legal bill

Discuss any concerns about the bill with your lawyer. If, after discussion, you are still not satisfied, you can have your legal bill reviewed before the Registrar of the Court. This process is called taxation. There may be additional legal costs associated with the taxation process, and the review must be reviewed within a time period specified in the [Legal Professions Act](#).

To arrange for a taxation review of your legal bill, you must contact a court registry. A list of court registries is available at www2.gov.bc.ca/gov/content/justice/courthouse-services/courthouse-locations

During the taxation hearing to assess your legal costs, the Registrar considers several issues. These issues can include the:

- Complexity of the issues involved
- Skill and specialized knowledge and responsibility required of the lawyer
- Lawyer's character and standing in the profession
- Amount involved

- Time reasonably spent
- Importance of the matter to the adult for whom you are acting as committee
- Results obtained

The Registrar will also consider whether all disbursements were reasonably necessary.

If you need help finding a lawyer in your area, you can contact:

- [Lawyer Referral Service](#) at 604-687-3221 or 1-800-663-1919
- [Dial-A-Law](#) at 1-800-565-5297; they also provide useful recorded information

Submitting your accounts to the PGT as a private committee

The Public Guardian and Trustee is authorized by the [Patients Property Act](#) and the [Public Guardian and Trustee Act](#) to regularly review the accounts of the adult to ensure the private committee is fulfilling their role in the best interests of the adult.

Failure to comply with the reporting requirements can result in your committee's role being removed.

Your first accounts submission to the PGT is due one year from the date of your court order. After this review and each subsequent review by the PGT, the next due date is set and the type of accounts submission is determined.

There are 2 types of account submissions for a private committee:

- 1. Full accounting:** involves submitting a report of accounts that may include a detailed expense listing, providing copies of supporting documents, an affidavit, a review fee is paid by the adult's estate to the PGT as set out in legislation. Typically, this report submission type is every 2-3 years, the estate is over \$25K, and income is over \$20K per year.

2. Limited accounting: involves submitting a report of accounts, requires no affidavit, and few supporting documents, and the adult's estate pays no review fees to the PGT. Typically, this report submission type is every 5 years, the estate is under \$25K, and the adult's income is under \$20K per year.

A full accounting is required the first time you submit your accounts to the PGT for review.

The account review process is as follows:

As the private committee:

1. You receive a letter from the PGT reminding you when your accounting is due
2. You submit your accounting to the PGT

The private committee services department:

3. Reviews your accounting and communicate the result of the review to you. They will also tell you when your next accounting is due and if you have to submit a full or limited accounting:
 - If the review of your accounts is successful, you will also receive a certificate which states that your accounts have been passed
 - If the review finds concerns, a letter is sent to you outlining the issues found and depending on the nature of the concerns, the PGT may provide more information to help clarify your role, or the PGT may take action to end your authority as committee

When to submit your accounts

As committee of estate you must submit accounts at regular intervals to the PGT. Your first reporting period ends on the last day of the month, one year from the date you were first appointed committee.

For example:

- If you are appointed committee on November 18, 2022, the first account review period is November 18, 2022 to November 30, 2023.

Your accounting for this period is due to the PGT no later than December 31, 2023

Account submission method

Complete either the full or limited accounting form sent to you, or if you prefer an online copy, you can download it from our website's [Reports and Publications](#) page. You must mail the completed form and copies of any required supporting documentation to the PGT. If you run into any difficulties making your submission, please contact us at PCSAdmin@Trustee.bc.ca.

When there are issues with your accounts

If your accounts submission is incomplete or does not comply with the requirements, we cannot complete your review and will follow up on missing information. This will delay the completion of our review.

We will work with you to resolve any outstanding issues encountered during your review.

The PGT may not pass accounts in some circumstances. For example, when:

- There are unresolvable issues with the accounts
- The committee has not responded to requests for information
- The committee does not provide the required supporting documentation

If the issues are not addressed, we will provide a letter outlining why your accounts for that period have not been passed. Depending on the nature of our concerns, the PGT may also take action to end your authority as committee. If your accounts have not passed:

- Your requested fee for your activities as committee will not be approved (if applicable)
- You can make an application for your accounts to be approved by the court
 - We must be given notice of this application
 - We may oppose your application or make comments to the court about our concerns

When a full accounting is required

Once the PGT has reviewed and passed your accounts, you receive a certificate. If you have asked to be paid a fee for your services as committee, the certificate will also state the fee that you are entitled to take from the adult's estate.

- If we are not able to pass your accounts, you may be referred to the court for a Registrar's Passing
- If you are not satisfied with the fee awarded to you, you can go to court for a Registrar's Passing

An optional fee paid to private committees

As the private committee, you may be entitled to take a fee from the adult's estate. If you want to take this fee, you must request it when submitting your accounts.

You can not take this fee until we send you a certificate stating your accounts have been passed. The certificate will also state how much you are entitled to take in fees. If you have not reasonably performed your duties as committee, your fee may be reduced or denied.

How we calculate your fee

The PGT sets the fee you are entitled to receive when your accounts are passed. Fees paid to private committees for their services are based on the following:

- 5% of the income generated by the estate, and
- A set fee for asset management

If you have done additional work, for example, cleaning the adult's home, that you feel warrants an added fee, you must provide the details in writing with your account submission package. We will consider your request when we review your accounts.

Your personal income tax

Any fee you receive as committee is taxable income in the year you receive it. You can take the fee any time between the time it is approved and the end of the next reporting period.

For limited accounting

If the adult for whom you are committee has limited income and assets (under \$25,000.00), and it is not your first accounts reporting, we typically request limited reporting. The following are important considerations if you are on limited accounting:

- You do not qualify to take a fee for your role as private committee
- Each time the PGT reviews you may be requested for do a full accounting in the future if:
 - There are concerns about your management of the adult's affairs
 - The financial situation of the adult changes
- You are still obliged to file the adult's taxes and maintain a detailed accounting record. This should include statements and receipts that substantiate the adult's:
 - Assets
 - Liabilities
 - Income
 - Expenses
- Inform our office if the adult for whom you are committee:
 - Has a change in circumstances, including an increase in income or assets, such as an inheritance or windfall
 - Moves or changes contact information
 - Dies

Retaining records

Once the PGT has completed its review, we rarely ask for information about that reporting period again. However, the records can be useful for other reasons, for example:

- Canada Revenue Agency (CRA) may ask for information
- Someone may challenge your management of the adult's estate
- You may need information for the executor or administrator of the adult's will

Get legal advice about how long to keep your records and how to store them.

Managing personal affairs as a private committee

As committee of person, you have the legal authority to make decisions about personal affairs for the adult for whom you are acting as committee.

Some examples of these decisions include:

- Where an adult should live
- Whether the adult should participate in work, educational, or other activities
- Whether an adult should receive a type of health care
- Decisions about an adult's diet or what they wear
- Who can visit with the adult

Fostering independence is an important duty of all committees. As committee of person, it is important that you make an effort to find out the adult's current wishes and beliefs. You must also involve the adult to the greatest extent possible when making decisions about their affairs. The adult has the right to participate in personal decisions, even when you are committee.

To learn about the adult's wishes and beliefs, you should first talk to the adult. You may wish to talk with family members, close friends and others who might have valuable information that will help guide your decisions. Talking with the adult and the people connected to the adult will help you make the best decisions possible.

It is recommended that you record reasons for any decisions you make on behalf of the adult at the time of making them.

Legislation that guides your authority

As committee of person, your authority comes from the [Patients Property Act](#). There is also legislation related to making health care decisions on behalf of an adult, which is [Health Care \(Consent\) Act and Care Facility \(Admission\) Act](#).

Health care decisions

While you are committee of person, you have the authority to provide informed consent on behalf of the adult for whom you are committee. You may have to make health care decisions for the adult. These could be minor, such as keeping the adult up to date with medications and routine visits to the doctor.

Health care decisions can also be major, such as whether to undergo surgery. These decisions can have serious implications for the adult. The following is a list of considerations to help you make these important decisions:

- Have the doctor explain all treatment options
- Make sure you understand the benefits and risks of each option
- Consider seeking a second opinion
- If possible, speak to the adult about their wishes and consider any known instructions or wishes made by the adult when the adult was capable
- If there are no known prior instructions made when the adult was capable, follow their known values and beliefs and if there are no such values and beliefs, know then the decision is to be made in the adult's best interests
- When it's appropriate, talk with family members and friends. They can help you understand the adult's wishes when they were capable, values and beliefs
- Keep a journal with information, events and dates related to the key decisions you make

Residential and facility admission decisions

As committee of person, you have the legal authority to decide where the adult for whom you are committee lives. When managing this aspect of the adult's personal life, you can ask yourself the following questions:

- How is the adult currently managing?
- Is the adult's current setting suitable?
- What plans are there for the adult's future?

These decisions can be very hard to make, especially if the adult needs to move from their home. For example, it can be hard to balance the adult's wishes against the acceptable risk and affordability of the option for them to stay at home. There may not be a clear choice. Speaking with the adult's caregivers, such as their physician or social worker, can be very helpful. You must consider:

- The adult's wishes
- The best interests of the adult
- The level of care/support the adult needs
- The level of support that is available
- The level of risk associated with the location
- Consultation with family or friends
- Financial considerations

Access decisions

Well-being also includes emotional support and social connections, such as contact with family and friends. In most situations, adults should decide who they wish to have contact with. Visits to or from family and friends usually contribute a great deal to the adult's quality of life.

However, in certain situations, you might need to limit or restrict someone's ability to visit with the adult for whom you are committee of person. This decision should only be made as a last resort, such as when there is potential harm or risk to the adult for whom you are acting as committee.

Consider the following:

- The wishes and best interests of the adult
- Alternative arrangements that could provide a safe environment for the individual to visit the adult

- The advice of the adult's health care provider
- The potential for, and the level of risk or harm to the adult

If you decide to restrict someone's access to the adult you should:

- Keep a written record of the events and the information you considered to make your decision
- Communicate in writing to the person whose access you have chosen to limit to let them know about your decision

It's not uncommon for individuals whose access to an adult has been restricted by a committee to contact the Public Guardian and Trustee (PGT).

These individuals may allege that a committee has abused their authority by restricting access to the adult. We have an obligation to investigate any allegations of inappropriate conduct by a committee.

When we conduct our investigation, we ask that a committee provide information about why they decided to restrict someone's access to the adult. When we have gathered and reviewed the information, we may:

- Conclude our investigation by taking no further action
- Offer suggestions to resolve the situation, or
- When necessary, take legal steps to resolve the matter

How to foster independence and decision making as a private committee

As committee, you have the legal authority to make decisions for an adult who is no longer capable. However, under B.C. law, every individual has the right to take part in making decisions about their own life. This is still true for adults who have been legally declared incapable.

Your role is to ground your committee's role in respect for and dignity of the person you are assisting. To do this, you must foster the independence of the adult for whom you are committee for as much as reasonably possible. You must:

- Foster the adult's independence
- Encourage and involve the adult in decisions

To guide your decisions, you must balance your role as committee with promoting the adult's independence in ways that matter to the adult. You should try to include the adult's input in decision-making, but you must also have safeguards to protect them from serious risk or loss. To do this, you must explore the adult's wishes and beliefs. If this is difficult, you can talk to the adult's friends, family and caregivers to help you understand what the adult might have done when the adult was capable. It will also help you to maintain the adult's independence and input into decision-making to the greatest degree that they are capable of.

This can be a challenging balance to achieve. It's not uncommon for committees to ask themselves if they've supported the adult's independence and wishes too much or too little. We have years of experience and you are welcome to call. We cannot make decisions for you, but we may be able to provide you with advice or resources that can help.

Here are some stories that demonstrate how a committee can foster independence and decision making.

Connecting with the community

Gurpreet is in his late 40s. He has had multiple traumatic head injuries which have affected his speech, impacted his problem-solving skills and, over time, his mobility. He now uses a motorized wheelchair to get around his community. Gurpreet also lives with mental health issues. He enjoys being active in his community, regularly attends a local temple and is proud of his home. Over the years, Gurpreet has been taken advantage of by others, particularly with respect to his money.

Before his accidents, Gurpreet was independent in all aspects of his life. Today, through the daily assistance of community support workers, he lives in his own home. Gurpreet's brother was recently appointed as his committee to finalize a legal settlement related to his injuries. Frustrated and worried that Gurpreet could be financially exploited, his brother considered only allowing Gurpreet to be involved in the community when supervised by his support worker.

One of Gurpreet's favourite spots to visit is a local tea shop, conveniently located two blocks away from his home. Gurpreet's brother identified that the coffee shop could be a safe environment that would allow Gurpreet to remain active in the community.

Together, Gurpreet and his brother planned and practiced a safe route for him to navigate the short ride in his wheelchair. Gurpreet's brother provided the shop manager with his contact information in case of any problems. Gurpreet now drives his wheelchair to the restaurant, where staff greet him by name, and he orders his tea and something to eat. His brother loads a gift card with \$50 each week, so Gurpreet does not have to worry about carrying cash and can purchase his favourite items.

This is an example of fostering independence in an appropriate and supportive way, without imposing undue restrictions. In this case, it also saves Gurpreet the extra cost of a support worker for this familiar activity. Debit cards, gift cards and

other non-cash options can provide opportunities for purchasing items while limiting risk. They may also provide a record of purchases made with the card, documentation Gurpreet's brother can use to monitor and account for how Gurpreet's money is being spent.

Honouring a relationship

Fei, a 24-year old woman with a developmental disability, recently surprised her family with the news she is engaged to be married.

Fei's parents, who are also her committees, are reluctant to support the idea. They know very little about Fei's fiancé Anson, and are anxious about Anson's intentions and the legal implications marriage would have for Fei.

The committees want to support Fei, but also make sure she understands their concerns. They decided the best approach would be to talk to their daughter about how marriage would change her current situation and ask if she and Anson had thought about details like setting a date or where they would live. They also invited Anson to dinner to get to know him better. Although they are aware their authority does not give them the power to decide whether Fei can marry, the committees want to do their best to help Fei make an informed choice.

While the committees' protectiveness of their daughter is understandable, the decision to marry is Fei's. As committees, Fei's parents are required to support her in making the decision she feels is best. They can provide her with advice or guidance they feel will help guide her, but ultimately they must respect Fei's wishes. To support Fei, the committees could encourage her to participate in premarital preparation programs to support success in her relationship. They could also consider legal counsel to determine how best to protect Fei's assets. Supporting and involving Fei facilitates the balancing act of honouring Fei and Anson's relationship with the committees' responsibility to protect her interests.

Finding a balance

Michael has lived in the same home in a small town in British Columbia since his early-20s. It's where he and his partner raised their family. Although his partner passed away a few years ago and their three children had all long since left home and moved to the city, Michael can't imagine living anywhere else.

Now in his mid-70s, Michael has dementia. Andre, his eldest son, was appointed committee and had been managing Michael's finances from a distance – paying his bills, filing his taxes, and ensuring Michael had access to enough money to live life as he always had. Michael's neighbours have always kept a close eye on him and have alerted Andre to any issues. Sometimes, he would forget to mow the lawn or collect his mail, but Andre would simply deal with it the next time he visited.

Recently, Michael's health has noticeably declined, and Andre is increasingly alarmed by the problems Michael is having. A neighbour was visiting one morning and noticed the stove had been left on all night, and a pot had boiled dry. The last time Andre visited, Michael asked to go out for bacon and eggs. When Andre reminded him they had only just finished a big breakfast 20 minutes earlier, Michael laughed it off, but it was clear he didn't remember. Andre wonders what else is going wrong and is worried about leaving his father on his own. He is thinking about selling the house and moving his father into a facility close to the city that could provide Michael with the assistance he seems to need. It would give Andre peace of mind that Michael was not at risk and it would also mean he could visit his dad more.

Although it seems Andre has Michael's best interests at heart, the option Andre is considering seems to be the best one for Andre, even though it may not be the best option for Michael. Michael is in the only home he has known for 50 years, and moving could be very disruptive and possibly traumatic. To foster Michael's independence, Andre could consider whether other options could mitigate the risk of leaving Michael in his home. Has Andre consulted with Michael's doctor? Can Michael afford in-home support? If he cannot live independently, could he afford to keep the home so

Andre could take him back for visits? Andre could also have a frank discussion with Michael about his living situation and Michael's preferences. Even if he can no longer live in his home, Michael may prefer to move to a facility in his community rather than one near Andre.

A cautionary tale

Frank suffered a traumatic brain injury due to a motor vehicle accident a few years ago. His injuries were severe, and as a result, he was declared incapable, and his daughter Olena was appointed as his committee. The accident resulted in a financial settlement. It provided enough money to support Frank for many years. Frank's daughter does not live in the same community as his father, so she deposited the settlement funds into his father's bank account and allowed him to continue using his debit card to access the account for his day-to-day expenses.

Periodically, Olena reviewed the bank statements for anything out of the ordinary. One month, she noticed a sizeable drop in the account balance. The statement detail showed several \$500 and \$1,000 cash withdrawals, some on the same day. Olena called the bank to put a hold on the account and then called her father to tell him how his account had been compromised. Olena was surprised to learn her father had made the withdrawals. Frank had spent some of the money and had made several loans to new friends (although he couldn't remember who).

Unfortunately, Frank's daughter did not fully understand his dad's vulnerability. As a result, much of Frank's settlement money was quickly misused by people taking advantage of Frank's good nature.

In this situation, fostering Frank's independence and participation in decision-making requires a greater investment of time on the part of the committee as well as some thoughtful actions to reduce vulnerability. This situation could have been prevented if Frank had a different arrangement for access to his money. In this example, a protection could have been to create a separate bank account for Frank with a monthly amount transferred in

for his personal use. A prepaid credit card, with a smaller dollar amount loaded onto the card, could also help support Frank's independence without risking financial misuse.

Ending private committee

Committeeship can end in several ways:

- The adult becomes capable
- The adult permanently moves to another province or country
- The committee is no longer willing or able to act as committee
- Someone else is appointed committee
- Death of the sole committee
- Death of the adult

When the adult becomes capable

It is inappropriate to act as committee if the adult is capable of looking after their own affairs. When this happens, a committee can help the adult to:

- Consult with a doctor to confirm the adult is capable of making decisions
- Contact a lawyer to help the adult take the steps needed to get a court order to declare the adult capable and end your role as committee

If the adult permanently moves outside of B.C.

Your authority as committee may not be recognized outside of B.C. If the adult for whom you are acting as committee permanently moves outside of B.C.:

- You may need to apply for a similar authority in the new location. If you do this, you must:
 - Provide the PGT with a copy of the documents that set out your new authority
 - You may also need to get a discharge of your authority in B.C.

If you don't apply for authority in the new location, you must:

- Provide evidence to the PGT that the adult has permanently moved from B.C. Acceptable evidence is proof that the adult:
 - Has lived outside of B.C. for a minimum of 2 years
 - Has no assets in B.C.

If the adult has permanently moved, you must:

- Apply to the Supreme Court of British Columbia to get an order to release you from any bond posting requirements
 - The PGT will not consent to the release of a bond without a court order

If the adult returns to B.C. and your committee is not terminated:

- The original court order that appointed you committee continues to be in effect
- You must let the PGT know that the adult has returned to B.C.
- You will again have to submit accounts to the PGT on a regular basis

You are not able or willing to act as committee

If you are no longer able to act as committee you should:

- Contact a lawyer to apply for a court order to end your committee
- The court will probably ask that you have your accounts approved by the PGT up to the date of the court order

Costs from your application are usually payable from the adult's estate but be aware this is the court's decision and it is not automatic.

Someone else is applies for committee

Someone other than yourself may apply to be appointed committee. This person is legally

required to notify you of their application. The PGT will also be notified. The court may require that you:

- Have your accounts approved up to the date of the new court order

Death of the committee

If you die and you were co-committee for someone, the other committee continues in the role.

If you die and you were sole committee for someone, the PGT becomes committee automatically.

When the PGT is committee, we have the same fiduciary duty as all private committees. We manage the affairs of the adult in the adult's best interest. We consult with family, friends and caregivers. We continue to act as committee until:

- A new committee is appointed by the court
- The adult is declared capable
- The adult dies

Death of the adult

The nature of the role of committee changes after the death of an adult. It is important to understand this.

After the adult with a private committee dies

When the adult for whom you are committee passes away, the Public Guardian and Trustee (PGT) role and your role as a private committee changes.

The PGT's role change

The PGT no longer oversees your activities as committee after the death of the adult. It's important to note that the PGT no longer has the authority to review accounts after the adult has died. Do not send them to us. Notify our office of the adult's death and send us a copy of the death certificate.

The private committee's role change

Previously, your role was to make decisions in the adult's best interest. After the adult for whom you were committee dies, your focus is to preserve their estate for the beneficiaries or, if there is no will, for the intestate successors.

- A will is a legal document left by someone who has died. It lets the court know what to do with that person's estate
- An intestate successor (often commonly referred to as heir) is a person who is entitled to receive something from a deceased person's estate but there is no valid will or the will, as written, failed to give away the estate
- An executor is the person or one of the people named in the will and is responsible for carrying out the instructions in the will and administering the estate
- An administrator is a person responsible for administering the estate of someone who died either without a will or where a named executor cannot act or has died. An administrator is the same as an executor, but is appointed by a court

As set out in the section 24 of the [Patients Property Act](#), your authority as a committee continues until you receive notice from the court determining who has been legally proved to be the executor named in the will through the probate process and issuing of a representation grant.

- Probate is the court process that verifies the will is real under B.C. laws. It includes the cost of the court appointing an executor or if there is no will, an administrator of the estate
- A representation grant is sometimes called an estate grant and is a document that says who has been legally proven to be the executor named in the will.

The executor or administrator takes over administering the estate when the representation grant has been issued. It can take time for an administrator or executor to be appointed. In the interim, it's important that, as committee, you focus on preserving the adult's estate until an executor or administrator has been appointed.

Matters that need immediate attention:

Determine if there is a will

Sometimes, as committee, you may already have a copy of the adult's will or know that no will exists. In other instances, you may not be sure if the will you have is current or if a will exists at all. If you're not sure if the adult for whom you are committee made a will, you can:

- Contact the adult's lawyer or Notary Public
- Order a will search at the [B.C. Vital Statistics Agency \(ecos.vs.gov.bc.ca\)](https://ecos.vs.gov.bc.ca)
- Make a search through the adult's paperwork and electronic devices for a will or will document

Facilitate funeral arrangements

Section 5 of the [Cremation, Internment and Funeral Services Act](#) outlines the responsibilities for funeral arrangements. Funeral arrangements are the responsibility of the adult's executor or nearest next of kin. It's your responsibility to liaise with the executor or administrator of the adult's estate about final arrangements for the adult. For example, you can let them know the following:

- If there are prepaid funeral arrangements
- If you know of any wishes the adult expressed about their funeral
- What funds are available to pay for the funeral costs

Secure personal effects and vacant real property

You'll need to make sure the adult's home and any personal effects of value are secure. If the adult's residence is empty:

- Ensure personal effects are safely stored
- Check the insurance coverage to ensure items of value are properly insured
- End the tenancy agreement if there is one

Get the death certificate

You'll need the death certificate to notify institutions, such as:

- Banks
- Canada Revenue Agency
- PGT

You can order copies of the death certificate from the:

- Funeral home
- B.C. Vital Statistics Agency

Some institutions require an original or certified true copy of the death certificate. The PGT accepts a photocopy or an emailed scanned copy.

Ongoing management of the adult's estate

It can take time for an executor or administrator to be appointed by the court. During this time, your focus must shift to preserving the adult's estate for the beneficiaries or, if there is no will, for the intestate successors. After the adult dies, committees typically:

- Collect income and other payments that the adult's estate is entitled to, such as rent, debt repayments, refunds and the Canada Pension Plan death benefit
- If the estate has funds and it is appropriate, you'll continue to pay bills
- Cancel payments and services that are not needed anymore, such as rent, utilities, or health insurance
- Notify financial institutions and agencies of the adult's death, including the PGT
- Pay any filing or probate fees that the court registry needs to issue the representation grant
 - Probate is the court process that verifies the will is real under B.C. laws. It includes the cost of the court appointing an executor or if there is no will, an administrator of the estate
 - Probate fees charged by the court for probate services are based on the size of the estate

You're also expected to provide information about the estate to the legal representative. A legal representative is a person or organization appointed by a legal document (e.g. power of attorney, representation agreement) to act on behalf of someone else. You should make sure they know about critical dates or matters that need immediate attention. These could include:

- Deadlines for any legal actions in which the adult is named
- Pending property sales
- Maturing investments
- Tax filings
- Payment deadlines (for example, property taxes)

The limits to your authority as committee before the adult's death still apply. In particular, as committee, you can not:

- Distribute the estate
- Sell, give away or dispose of assets unless it's necessary to preserve the estate
- Access restricted assets unless you have a court order approving your access
 - The PGT does not approve requests to access restricted assets after the adult for whom you are committee has passed away

Ending your committee ship

Once you receive a copy of the representation grant, your authority as committee ends. You can transfer the adult's assets to the estate's legal representative. You can ask the legal representative of the adult's estate to approve any accounts not already approved by the PGT. This may be necessary if you:

- Wish to take a fee from the adult's estate for acting as committee
- Are seeking the release of a bond
- Are seeking discharge from the court

If you are also the legal representative, you can ask the beneficiaries or intestate successors to approve any remaining accounts.

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

If the court order appointing you as committee require you to post a bond, the PGT will consent to its release after receipt of:

- A copy of the representation grant or a Statutory Declaration from the legal representative that they are not seeking a grant, and
- A release from the executor or administrator approving or waiving the approval of your accounts
 - If you are the legal representative, you can ask the beneficiaries or intestate successors for a release
 - The PGT will provide you with a copy of the appropriate release form for you to complete

Approval (or waiver of approval) of committee accounts

The PGT does not review a committee's account(s) after we have been notified of the adult's death. The authority to approve or waive approval of accounts rests with the following:

- The executor or administrator of the adult's estate, or
- If you are the executor or administrator, approval rests with the adult's beneficiaries or intestate successors

You don't need to involve the court to have your accounts approved. However, it may be helpful to engage the services of a lawyer to prepare the account and waiver documents. If all persons entitled to approve the committee accounts do not approve or waive the accounts, the committee can seek court approval of the accounts. A lawyer can help you with the process of getting court approval of your accounts.

Getting a court discharge

You can obtain a discharge from the court to release you from liability for your management of the adult's estate when you were committee. This is not required but may be necessary if you are concerned that the legal representative, beneficiaries or intestate successors may challenge your management of the estate. Approval of the committee accounts is part of the discharge process.

An alternative option to a court discharge is to ask that the executor or administrator of the adult's estate sign a release confirming they release you from any claims concerning your committee ship.

Accounting issues

If a dispute over the committee ship accounts cannot be resolved informally, you may have to go to court to have the accounts reviewed. You or the beneficiaries, intestate successors, and legal representative have the right to involve the court. Therefore, it's important to get legal representation if this is the case.

Transferring assets without a grant

Sometimes the executor or administrator of the adult's estate will ask that you transfer the estate without a representation grant issued by the court. You could be personally responsible if any issues arise from the transfer of the estate. To assess your risk, consider the following:

- The size of the estate
- Your confidence in the validity of the will
- Your knowledge of the executor or administrator
- Your knowledge of the beneficiaries or intestate successors

We encourage you to get legal advice to help guide your decision.

Contact the Public Guardian and Trustee

Private Committee Services

700-808 West Hastings Street
Vancouver, B.C. V6C 3L3

Phone 604-660-1500
Email PCSadmin@trustee.bc.ca
Website www.trustee.bc.ca

Toll free calling

Toll free calling is available through Service BC.
After dialing the appropriate number for your area (see below)
request to be transferred to the Public Guardian and Trustee.

Vancouver 604-660-2421
Victoria 250-387-6121
Other areas in B.C. 1-800-663-7867

PGT hours of operation

Monday to Friday 8:30am to 4:30pm