

When A Dependent Adult Dies

The Public Trustee continues to protect assets already under its control until the Court appoints a personal representative (executor or administrator) of the estate. The Public Trustee does not make funeral arrangements, but will advance funds from the estate to cover reasonable funeral expenses. To finalize the estate, it will be necessary for someone to be appointed personal representative of the estate. The Public Trustee will turn over control of the estate to the personal representative after being provided with a release, or after accounts are reviewed and approved by the Court.

Options For Assistance

Formal trusteeship is just one option to help dependent adults deal with their finances. Other options include informal trusteeship and enduring powers of attorney. Each has its advantages and disadvantages. Brochures dealing with these and other topics are available from the Office of the Public Trustee or at: www.justice.gov.ab.ca/public_trustee/.

Assisting Dependent Adults With Finances

Office Of The Public Trustee

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Office Of The Public Trustee

For More Information:

Visit: www.justice.gov.ab.ca/public_trustee/
Or, call toll-free: 310-0000, then dial
780-427-2744 for the Edmonton office, or
403-297-6541 for the Calgary office

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**Government
of Alberta** ■
Justice

The Public Trustee is appointed by the Alberta Government under the Public Trustee Act to protect and manage the financial interests of vulnerable Albertans. The trust administrators, lawyers, taxation officers, auditors and support staff in the Office of the Public Trustee act on behalf of people with mental disabilities, administer the estates of deceased persons and protect the property interests of minors.

Assisting Adults With Mental Disabilities With Finances

When a person with a mental disability has an estate to manage it may be necessary for a trustee to be appointed under the Dependent Adults Act. The trustee can be an adult residing in Alberta, a trust company, or the Public Trustee. The Court may appoint a trustee for an adult if it is satisfied the person is unable to make reasonable decisions about their estate, and it would be in the person's best interest to have a trustee. The Public Trustee will not be appointed, unless the Court is satisfied there are assets in need of protection and ongoing management, and there is no other suitable person to act as trustee.

Other Ways The Public Trustee Is Appointed

When a court-appointed trustee dies and no alternate was named in the Trusteeship Order, the Public Trustee becomes trustee once notice of the death has been received. The Public Trustee can also become trustee for a person lacking mental capacity by the issuance of a Certificate of Incapacity if the person resides in one of the designated psychiatric facilities in Alberta. A Certificate of Incapacity is not valid if the person had already signed an Enduring Power of Attorney or if the Court had already appointed someone else as trustee.

How The Public Trustee Manages An Estate

Once appointed, the Public Trustee takes control of a dependent adult's property, which may include land, vehicles, investments and personal property. Arrangements are made to collect the dependent adult's income and pay the expenses of the dependent adult.

Any payments made by the Public Trustee must come out of the dependent adult's assets or sources of income. The Public Trustee does not have any funds to provide as a benefit to clients.

If the adult's income is more than their expenses, the Public Trustee puts the remaining amount in a trust account which pays interest. By assuming control of a dependent adult's property, the Public Trustee does not seize nor confiscate the assets or sources of income. The Public Trustee merely manages the property for the benefit of the dependent adult.

Fees Charged For Managing A Dependent Adult's Estate

Fees are charged by the Public Trustee to cover the cost of managing the dependent adult's estate. These fees may be reviewed by the Court. These fees may include legal fees, court costs, postage, photocopies and travel expenses. The Public Trustee may also hire professionals and agents such as property managers, lawyers, appraisers, realtors, accountants and auctioneers to assist in administering the estate. These professionals are paid from the dependent adult's estate.

A Dependent Adult May Prepare A Will

A person may have the legal capacity to make a valid Will even though a trustee or a guardian has been appointed.

A Trusteeship Order Does Not Cancel A Valid Will

The appointment of a trustee or guardian does not cancel or change a will, or affect beneficiary designations under a life insurance policy, pension or retirement savings plan. If the Public Trustee knows a dependent adult client has made a Will, the Public Trustee strives to administer their property in a manner that respects the wishes expressed in the Will.

When The Public Trustee's Authority Ends

The Public Trustee will manage a dependent adult's estate until the Public Trustee is discharged or replaced by a different trustee or the dependent adult dies. The way the Public Trustee is discharged or replaced will depend on whether the Public Trustee acts under a Certificate of Incapacity or Court Order.

Acting Under A Certificate Of Incapacity

A Certificate of Incapacity remains in effect until the Court issues a trusteeship order or issues an order terminating the Certificate. The Certificate can also be terminated by the Appeal Panel, or by two physicians who conclude the person is able to make reasonable judgments regarding their estate.

Acting Under A Court Order

If the Public Trustee acts under a Court Order, any interested party, including the dependent adult or the Public Trustee, may apply to the Court to have the trusteeship terminated and the Public Trustee discharged. If the Public Trustee is discharged as trustee, control of the estate is returned to the former dependent adult or to a court appointed replacement trustee once an accounting has been reviewed and approved.